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Should Trees Have Standing?

Trees should not have standing. Increasingly, issues of climate, energy, and environmental policy move further into the limelight. It seems that with each generation, people care more, or at least purport to care more, about the protection of the environment. The topic at hand, whether trees should have legal standing, brings with it potential for debate. Among other considerations, one should examine stare decisis, the economic and intrinsic value of trees, and the legal standing of other non-human entities in order to come to this informed position.

Granting status to trees undermines established legal principles and may introduce a variety of challenges. In the children's book *The Lorax* by Dr. Seuss, the titular character memorably says "I am the Lorax. I speak for the trees. I speak for the trees, for the trees have no tongues," which could be misconstrued if understood too literally. A broad interpretation is essential here, where the Lorax advocates for the protection of trees, but as the Lorax acts as steward to them, the legal system offers the means to do the same. Precisely, trees having standing could lead to unintended consequences, such as the obstruction of economic development, the creation of new issues surrounding property rights and land use, the introduction of legal complexity, and the diversion of resources away from addressing human concerns. Furthermore, the Lorax could utilize a range of policy approaches, perhaps utilizing the softer approach of persuasion. By emphasizing more comprehensive approaches to environmental protection, one could circumvent or at least mitigate some of the previously

mentioned unintended consequences. When thinking of standing of trees, it is helpful to compare them to animals and other natural entities, such as bodies of water or mountains. It seems that the debates are similarly complex in these areas, especially since the law is not clear-cut for any of them.

Another disadvantage of trees having standing relates well to the history of Yosemite Valley, specifically in relation to Carleton Watson's photographs of the valley. According to *Free Market Environmentalism for the Next Generation* by Anderson, Leal, and Regan, "The park's iconic viewpoints had become obscured by trees ... obstructing many of the historic views that made Yosemite a world-famous destination ... the landscape that preservationists wanted to preserve was one that was largely shaped by human action". The transformation of Yellowstone brings up a key issue regarding the legal standing of trees. If the preservationists want to chop down the trees so that the landscape appears as it did before the arrival of the European colonizers, the land would still not appear as it did before human action since Native Americans had a large influence on clearing and maintaining it. Thus, that introduces a conflict that would be disappointing to many should trees have legal standing. Furthermore, a 2019 news release from the National Park Service showed a benefit to the local economy of over \$620 million and a cumulative benefit to the U.S. economy of \$40.1 billion. If we consider vistas like El Capitan that made Yosemite the lucrative attraction that it is today, along with the recent history of wildfires in California that threaten overly dense forests, it seems clear that trees should not have standing.

Opponents will likely argue that trees should be protected for their own sake, citing the famous dissent by Justice William O. Douglas in *Sierra Club v. Morton*, which states that "Contemporary public concern for protecting nature's ecological equilibrium should lead to the

conferral of standing upon environmental objects to sue for their own preservation.” However, according to Salzman and Thompson, Jr.’s *Environmental Law and Policy*, in *Sierra Club v. Morton*, “the Court emphasized that standing did not require a showing of economic injury. For standing purposes, injury can ‘reflect ‘aesthetic, conservational, and recreational’ as well as economic values.’” This case demonstrates the needlessness for trees to have standing. If injuries can reflect all of the aforementioned values, there would be a way for a case to be built without the need for trees to have standing of their own.

There will always be arguments between preservationists and conservationists. It can be difficult to determine how to best serve people and the natural world, as their interests are not often perfectly aligned. The conservationist approach is very tempting as it uses a more economic approach and considers more human-centered values, but the allure of the preservationist approach and its dedication to ethics is certainly admirable as well. One can adopt a slightly more neutral perspective in relation to not granting trees legal standing since there is legal precedent, meaning that depending on the case made, the court may rule in favor or against a plaintiff who speaks for the trees.