

Frustrations of a Federal Environmental Policy Advisor: The Observations of a
Former Under Secretary of Commerce for Oceans and Atmosphere and
Administrator of NOAA

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Abstract: As the Under Secretary of Commerce from April 1988 until July of 1989 my opinions of the Federal Policy making process went through a major change. The major impact on my view of the government environmental policy making procedures came as a result of the Exxon Valdez, Prince William Sound oil spill disaster which happened on my watch. It became obvious that my view of the environmental policy making process, once thought by me to be driven by science was naïve at best. Unfortunately partisan politics was, in my opinion, the driving force (or farce) for the decisions and actions that resulted from this and other environmental issues. The result was a lethargic system due to a lack of cooperation --elected officials, appointed personnel and career Civil Service leadership. There is and were, in my opinion, no sense of urgency to deal with environmental issues such as clean air, clean water, global climate change and a host of others. The voices of special interest groups (lobbyist) were frequently listened to more intently than those of science

Introduction:

In 1983 I received a call in my office in San Diego and informed I had an appointment with the Director of White House Personnel. I honestly did not have a clue as to what this was all about. It finally came out that I was being interviewed for a possible presidential appointment to the Marine Mammal Commission. After much questioning, both written and oral by what appeared to me to be political people who cared little about my science credentials and mostly about my almost non-existent politics. John Harrington was the Director of White House Personnel at the time and appeared to me to be 'right of Genghis Kahn' to quote Frank Todd from Sea World who considered himself in that league. In spite of all of this I was informed that I had been selected by the White House to fill the position of Chairman of the Marine Mammal Commission. I think I was the only one neutral enough or at least non-committal enough to be acceptable to the environmental community and the Reagan White House. It turned out that during the recent reauthorization of the Marine Mammal Protection Act (1982) the wording in the section on appointment of the three Commissioners was changed to require Senate Confirmation. Most of the candidates recommended by the White House before would not make it through Senate Confirmation based on their lack of scientific experience and in some cases education. Most if not all had little or no marine mammal experience let alone science experience. Most had been picked based on political affiliation including contributions and not science credentials. I

concluded that although I had no political connections, I was from California and that seemed to be my only reason to be acceptable to the Administration even though I was also qualified. To me the Act was quite clear in its statement of qualification for Commissioners.

Although this period was to be one of the more exciting forks in my winding career road it was also one of the most frustrating and eventually one of the most disappointing. The disappointments came mainly from the lethargy of the systems and the reluctance of the members of the three Washington D.C. cultures, elected officials, appointed officials, and career Civil Service officials, to make things happen. Each of these cultures seemed to have distinctively different agendas. Interestingly enough these agendas were in a majority of cases set by special interest groups rather than science and technology. The best examples of this were the responses of both the Congress and the Executive and Administrative branches in trying to understand the serious nature of many of the environmental problems lying on the horizon: Collapse of Fisheries, Global Climate Change, invasive species, Oil, Chemical and Nuclear pollution, clean air and clean water issues. My biggest challenges and unfortunately not successes were the U.S. Policies on:

- Fisheries and reluctance to understand the necessity for an ecosystems approach to management of living marine resources. This included a complete lack of understanding as well as reluctance to accept any new

concepts. In my opinion this has led to the almost complete collapse of our major fisheries.

- The U.S. Policies, or lack thereof, in dealing with the problems and issues in whaling and other endangered species issues and our trying to not alienating our International friends, (Japan, Norway, Iceland) while appeasing the environmental community.
- The environmental disaster of the decade: the grounding of the oil tanker Exxon Valdez in Prince William Sound and the resulting in-fighting between the various agencies who were the Trustees of the resource. The briefing I attended with Commandant of the Coast Guard Admiral Paul Yost in the Port of Valdez a few days after the spill could have been scenes from a Three Stooges Movie. Confusion, finger pointing and lack of cooperation reigned supreme.

I will discuss these separately since they represent good examples of the problems in the lack of clear decision making by Congress and the Administration during the 1980's and unfortunately beyond and into the 21st Century. See my comments in the 1989 "Prune Book". Many of these problems raise ethical as well as Policy concerns.

For the next five years most of my effort was in working on International Environmental Policy and US and fighting with various other Agencies. The issues were focused more who had the authority and less on solutions.

As the Chairman of the Marine Mammal Commission I had the opportunity to experiencing the inner workings of the International Whaling Commission (IWC). Previously I had attended several meeting of the Scientific Committee, but usually avoided the very political Commission meetings. I attended my first Commission meeting as a member of the U.S. delegation in the summer of 1983, one year after the passage of the controversial moratorium on whaling. I remained associated with the commission one way or another until 1991. Dr. John Byrne, who was also the Administrator of NOAA was the U.S. Commissioner when I became a member of the delegation in 1983. In 1985 Dr. Byrne resigned as the Administrator of NOAA and was replaced by Dr. Tony Calio. At the 1985, Commission meeting in Malmo Sweden, Dr. Calio got his initiation into international whale politics and found out that many countries considered whaling a fisheries problem. It was shortly after that experience that he called and asked if I would consider coming back to Washington DC as the Assistant Administrator for Fisheries and advisor on whaling issues. After much soul searching and many discussions with friends including the Director of the Southwest Fisheries Center in La Jolla, I accepted. My involvement with Whaling issues took a different turn.

As a full time member of the NOAA team I became more of a player in the policy making process. It was very evident early on that the NGO Community had significant influence on the U.S. Policy on whaling as well as fisheries issues. It was interesting that before I was fully accepted as the Assistant Administrator for Fisheries had to be 'approved' by the Director of the National Fisheries Institute (NFI). The reason – the Chairman of the Board of Directors of the Hubbs Sea World Research Institute, Milt Shedd was also very much involved with the American Fishing Tackle Manufacturers Association (AFTMA). In addition I was receiving a scrutiny by members of the protectionist environmental community (More NGO's) that made the FBI security check pale in comparison.

One of the first tasks I undertook at the National Marine Fisheries was to promote changing the way we manage marine resources. Instead of the methods of the single species management methods of the past 100 years I suggested, we develop an ecosystems management approach. I even had a comprehensive plan prepared with the help of scientists from the Centers, Fisheries scientists and FAO. We prepared a National Marine Fisheries Service Program Development Plan (PDP) for Ecosystems Monitoring and Fisheries Management. The plan was finished September 14, 1987. We even had seven Regions submit PDP's. (Program Development Plans). When I presented this plan to the House Merchant Marine and Fisheries Committee they thought I was just some crazy academic who was

clueless about fisheries. Although there was support on the Senate side the House was not convinced.

It turns out in retrospect the Program Development Plan was seen as a Republican ploy to put more regulation on the New England and East Coast Fisheries. Since we were dealing with a Democratic controlled Congress something perceived, as a Republican plan would never see the light of day. I am now convinced many very important and viable environmental policy proposals were casualties of patrician politics. I didn't give up, but it took another 10 years until the concept caught on (see appendix). We even made an educational video explaining the concept and science behind the ecosystems approach.

Many of the concepts are presented in the 1996 re-authorization of the Magnuson Stevens Fisheries Conservation and Management Act. In my opinion this happened because everything else did not work. However, even 16 years later I think even with the major changes in the Magnuson (now Magnuson-Stevens) Fisheries Conservation and Management Act it is just getting lip service and things are still the status quo and politics still is driving decisions making. Unfortunately many of the movers and policy makers in NOAA are still tied to the old concepts when it comes to issues of fisheries management and global climate change. And they are still overly influenced by special interest groups rather than the science. This is even in the face of a mounting supply of data that indicates that they are

looking the wrong way. It is interesting to note that the precursor to the National Marine Fisheries Service, the U.S. Fish Commission founded by an Act of Congress in 1876 was motivated by the eminent collapse of the New England Cod stocks. So what has changed?

In 1988 when I became the Under Secretary of Commerce, Administrator of NOAA. I also took on the additional job of the U.S. Commissioner to the IWC. During my tenure as the U.S. Commissioner three episodes stand out. As the U.S.IWC Commissioner I was responsible for maintaining the quota of bowhead whales for our Inupiat whalers. This meant trying to reach compromises between what the Alaskan Eskimo Whaling Commission, determine their subsistence need and the desires of a coalition of NGO group who wanted a zero take. In the process of these negotiation with other IWC members, NGOs and the Alaskan Eskimo Whaling Commission I did a lot of traveling. This included many trips to Alaska. My wife Phyllis wanted to go to Alaska so she asks to go on the next trip. Well that happened to be the AEWC annual February meeting in Point Barrow. I had purchased an authentic Eskimo parka for Phyllis and this was her chance to really see what it was for. The Alaska Airline daily flight to Pt. Barrow was loaded with the NGO delegations to the meeting, including, Project Monitor, Greenpeace, Humane Society International and few I can't remember. After the Tourist section loaded the lone passenger in First Class, Senator Ted Stevens came back to Tourist

to say hello to me and my wife. As he walked into the cabin he was wearing a full-length wolf fur coat and matching hat. I wish I had a camera to take a picture of the look on the faces of the NGO delegates. Several of them reached for the barf bags and we were not even airborne. Phyllis actually had a good time except for her helicopter ride out to the ice edge. We also had a chance to attend the annual banquet and sample the country food, which included pickled walrus flipper, whale blubber, and whale and seal meat. Again the not so subtle expressions on the NGO observers were present. I think this amused the AEWG members.

The second episode also involved Point Barrow and whales. As a part of the AEWG program to develop a positive image of their subsistence whaling and sealing they invited CNN up to Point Barrow to observe their fall bowhead whale hunt. While searching for a place to set up their whaling camp with the CNN film crew they came across three grey whales trapped in the fast ice. This was an obvious photo opportunity for CNN and made the evening news. The spin that was put on the episode would bring tears to your eyes. The Eskimo whalers saw this as an opportunity to show the world that they cared for whales so they started to try and free the whales. While all this was going on I was in Moscow attending an International Fisheries and Oceanography meeting hosted by the Soviet Hydromet. It was my Russian Host who informed me of the Pt. Barrow Save the whales Project. My host offered to help. They had a Nuclear Icebreaker within hours of

the site of the trapped whales. Well I was informed by the State Department representative with our party that I couldn't accept the offer without State Department and maybe White House approval. Well into the scene came several Environmental Groups who were concerned with a Nuclear Icebreaker contaminating pristine Arctic waters. Well what would have taken a few days at little or no cost to the U.S. turned into a major week plus long project which used a significant amount of NOAA's discretionary funds. In the end the Russian did get permission with a non-nuclear icebreaker. And the whales disappeared, hopefully to head South.

The third episode took place at the 1990 Annual IWC meeting in Noordwike Netherlands. I was asked by John Knauss to stay on as the U.S. Commissioner while he was getting use to the idea of being the new Under Secretary of Commerce for NOAA. Also this was a crucial meeting of the Commission since it was the meeting that was to evaluate the status of the Comprehensive Assessment of Whale Stocks as spelled out in the language of the 1982 Succession of Whaling Agreement. There was a major disagreement between the like minded conservation members, the U.S., UK, most of the European Union, Australia, New Zealand, Seychelles and the pro-whaling members, Japan, Norway and Iceland, as to what the language meant. The conservation group said that because of the need to gear the science up to do a comprehensive assessment it was to start in 1990, the

whalers were of the opinion that it was to be finished in 1990 and the start of limited whaling was to be considered, including quotas on several stocks.

The IWC Science Committee agreed that they were not ready to have a finished comprehensive assessment of whale stocks. A majority not to address the issue of quotas until the Scientific Committee had a complete report passed a resolution. In order to establish quotas it takes a two thirds vote of the members. During the course of the meeting Iceland (out of order) offered a resolution to consider some emergency quotas for minke whales since population data on hand indicated that several of the stocks were robust enough for limited harvesting. The Chair made the decision to allow the resolution on the floor. In consultation with my lawyers and advisers we felt the Chair was out of order so I called a Point of Order and Challenged the Chair under Roberts Rules of Order. Our challenge was upheld by one vote and the Iceland Resolution was dead. Well Iceland, Norway and Japan were very unhappy and protested my behavior both on the floor of the commission meeting but also to the State Department mentioning something about NATO bases in Iceland and Norway. The Secretary of State informed me shortly after the meeting that my services with the IWC were no longer needed. The first and only time I had been fired.

At the end of the Reagan Administrations second term I was asked to stay on as the Under Secretary for NOAA with President Bush's new Secretary of

commerce Bob Mosbacher a former partner in the oil and gas business with Zapata of Houston Texas. Six months into the new Administration what is still possibly the greatest U.S. environmental disaster in several decades – the grounding of the Exxon Valdez in Prince William Sound. At approximately 5:00 AM Washington D.C. time on March 26th 1989 I received a telephone call from the NOAA representative in Valdez Alaska, reporting that the EXXON super tanker Exxon Valdez had gone aground and was leaking tons of Alaskan crude oil into Prince William Sound. I immediately called the new Secretary of Commerce - Secretary Mosbacher , who gave me even worse news than I had given him. Because of his association with the oil and gas industry he had reclused himself of any policy decisions dealing with the oil and gas industry. I was it!

I immediately got in touch with the Commandant of the U.S. Coast Guard, Admiral Paul Yost. As I mentioned, the briefing I attended with Admiral Paul Yost in the Port of Valdez a few days after the spill could have been scenes from a Three Stooges Movie. The three main players, Exxon, Aleyeska (the pipeline company and the State of Alaska, were spending more time arguing as to who was in charge than in attacking the problem. In the meantime during all the finger pointing the tanker continued to dump tons of crude into Prince William Sound.

The U.S. Coast Guard was prepared to control the spill using a dispersant, but was stopped by the State of Alaska and local fishermen who were convinced

by an environmental group that it would kill all the fish. In addition, Alyeska, unfortunately had taken all of their oil spill response equipment off of their tugboats for repair without a backup. In addition, all of Exxon's oil spill response equipment was a thousand miles away. The lack of a single source to coordinate all the players was a big part of the problem. A Canadian Company produced an HBO movie based on the Exxon Valdez disaster, which has portrayed a fairly accurate picture of the confusion. The opening scene is a big Champagne Celebration of most of the main players as slightly intoxicated. I am not too sure how accurate that was, but it sure got your attention. So the Captain of the Exxon Valdez was not the only one under the influence.

It seems amazing to me that it took several days and major action by the U.S. Congress, for the Administration to decide whether or not they were going to intervene. The Senate Hearing that responded to the disaster was the most vicious that I had ever attended.

It is also interesting to note that the Oil Pollution Act of 1990, which resulted from this disaster, is the most comprehensive and fastest enacted piece of environmental legislation in the history of the U.S. It took a major environmental calamity to stimulate decisive action by both the Administration and the Congress.

It seems to me the same conflict among the major player as to validity of what some claim is the collapse of the world's fisheries? Could it be a lack of

coordination as well as cooperation between all the players including the fishing industry, consumers as well as the policy makers, both regional and federal?

After many years of reviewing the events during my career as an environmental policy maker, my major concerns are all the International social and economic problems in the 21st Century. Unfortunately these are not only having an impact on human life and societies but also taking the focus away from major environmental disasters yet to come. If the resources and efforts to address these problems are not forthcoming the world as we know it will be greatly changed.

I think one of the saddest parts of this whole story that gets little or no attention is the slow death of an important segment of our society – the fishing and farming communities. When I visit San Diego, Monterey and even my old home town on the shores of Lake Erie I am saddened by the rich heritage that the smaller and family oriented businesses brought to those areas. The once famous fishing ports and farming communities are now tourist sites with restaurants, boutiques etc. These concerns, as far as I can determine, are still only given again lip service by Congress and the Administration. Now that I live in the middle of Mid-west farm country I can see the parallels between the disappearance of the fishing culture in this country and the family farms, which are being swept away by large corporate entities. Fortunately a new wave of science, which looks at the interaction of Economics and Ecology, is beginning to emerge.

In my opinion we need some major educational initiatives and actions to change the balance of forces driving current policy from economics and bottom line to the wise use of the best science available. Two forces are influencing environmental change on this planet, those that are man made ones that we can control and those acts of Nature that we can only try to understand and accurately predict. Our challenge is to be able to recognize the difference and promoting the will to fix those things that we can fix. Meanwhile we must also continue to learn more about those we cannot – so that we might learn to better cope with them.