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Despite amendments, wetlands time bomb may explode at any moment

Major impact of federal Memorandum is still to come

By
Roger Herrera
RDC Executive Committee Member

When a proposed Memorandum of Understanding between the Army Corps of Engineers and the Environmental Protection Agency was quietly published in the Federal Register in November 1989, nobody realized that the future survival of the State of Alaska was being challenged. It is probably fair to point out that even the authors of the document had little appreciation of the damage it could do to Alaska. However, it didn't take Alaskans too long to recognize the nature of the time-bomb which had been triggered and was ticking.

In short order, thousands of letters of concern flooded the Office of the President in Washington, D.C. A few weeks later, a law suit, joined by the State of Alaska, the oil industry, municipalities and cities, native corporations and others, was filed against the offending document. The Alaska congressional delegation negotiated and debated with the two agencies to amend the memorandum and give it needed flexibility. Yet, despite all these countermeasures, the time-bomb is still ticking. Furthermore, it could explode at any time.

All this drama has to do with wetlands, which in most people's minds are rather benign, pleasant things associated with ducks and water birds. Potter Marsh comes to mind in Anchorage, a place to be visited with the kids and a pair of binoculars on the weekend. Surprisingly, in Alaska most houses are built on wetlands or lands now defined as wetlands, and so are offices and airports and docks. The definition is a strange one and lots of perfectly dry land in Alaska is administered as wetland.

Alaskans are beginning to recognize its impact. One of the first actions of the Corps of Engineers, using the controversial terms of the MOA, was

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I. The GNP is produced: (a) inside the Beltway, (b) Outside the Beltway, or (c) In Taiwan (Check one).

II. Consideration of the benefits of a proposed action - to a result that goes far beyond anything Congress could have conceived. On the state level, the wetlands issue has been fully assessed.

III. If they pass the test then they want to pay 50 cents a year for, say, yellow ribbons 'round the old gray tavern. For starters, we need to know the implications of prohibiting timber harvests in Northern Spotted Owl territory on jobs and the entire range of wood products consumed by the U.S. population. Above all, we need a worst case analysis done on the increased costs of home ownership, and protection from threat of Congressional action until the cumulative economic impacts have been fully assessed.

IV. Here's a good one: HR3383, the Park Service Boundary Expansion Bill. Consideration of the economic impacts of prohibiting timber harvests in Northern Spotted Owl territory on jobs and the entire range of wood products consumed by the U.S. population. Above all, we need a worst case analysis done on the increased costs of home ownership, and protection from threat of Congressional action until the cumulative economic impacts have been fully assessed.

V. In Eastern Europe, as well as the "Third World," it is quite clear that day to day survival is the first consideration of a hungry and impoverished people, and that other considerations such as a concern for the environment are strictly secondary. It appears that an entire generation of Americans has grown up to take their inherent high standard of living for granted without the historical realization that it was achieved mainly through freedom of opportunity and hard work, and how fragile it is. The sanctity of private property rights and freedom of opportunity are essential ingredients to maintain that society and its economy.

VI. If we in the West, and specifically the United States, have the luxury of placing environmental objectives at the top of the list because we are successful and prosperous. Let us not forget, however, that only through continued success and prosperity can we afford to maintain stringent environmental concessions. Herein lies the "catch" i.e., the question of balance. Without such balance, we will surely lose in both arenas.

By John Merrick

Without balance, America will lose in both arenas.
EPA's actions raise RDC's concern

The Resource Development Council has expressed alarm to Alaska's congressional delegation over the Environmental Protection Agency's "heavy-handed attitude" toward air and water quality issues affecting Alaska projects.

In a letter to Senator Frank Murkowski, RDC President Bill Schneider suggested that some EPA employees might be pursuing personal agendas rather than following federal regulations and policies set forth by President George Bush. Schneider charged that in some cases EPA has ignored the results of the collection and analysis of vast quantities of scientific data, as well as vast public comment on projects.

RDC opposition to federal land withdrawals in Alaska, including the BLM's actions to designate the National Wild and Scenic Rivers System.

The new withdrawals may well embrace valuable recreation and scenic, recreational, geological, cultural and historical value. By now proposing to deny the discharge permit, EPA appears willing to ignore the results of about $40 million of environmental studies which support the conclusions reached by the previous Administrator who approved the discharge plan.

"This situation seems to exemplify an attitude emanating from EPA in Alaska and in Washington," Schneider said. "We've seen the reallocation of the agency on wetlands and its refusal to allow public comment in the formulation of the Memorandum of Agreement with the Corps of Engineers, its demands to the Corps of Engineers regarding an Endicott causeway retrofit decision, and its negative approach to the City and Borough of Juneau's land management plan were other cases cited by the RDC." Schneider charged that in some instances EPA has ignored the results of the collection and analysis of vast quantities of scientific data, as well as vast public comment on projects.

A case in point cited by RDC is EPA's reversal of an earlier decision to allow mill tailings from the proposed Quartz Hill Molybdenum project near Ketchikan to be placed in Wilson Arm. By now proposing to deny the discharge permit, EPA appears willing to ignore the results of about $40 million of environmental studies which support the conclusions reached by the previous Administrator who approved the discharge plan.

"This situation seems to exemplify an attitude emanating from EPA in Alaska and in Washington," Schneider said. "We've seen the reallocation of the agency on wetlands and its refusal to allow public comment in the formulation of the Memorandum of Agreement with the Corps of Engineers, its demands to the Corps of Engineers regarding an Endicott causeway retrofit decision, and its negative approach to the City and Borough of Juneau's land management plan were other cases cited by the RDC." Schneider charged that in some instances EPA has ignored the results of the collection and analysis of vast quantities of scientific data, as well as vast public comment on projects.

RDC opposes Wild and Scenic Rivers proposal

The Resource Development Council has submitted comments to the Bureau of Land Management opposing any further federal land withdrawals in Alaska, including the BLM's interdisciplinary team's proposal to add 13 water bodies into the National Wild and Scenic Rivers System.

In its comments on the issue, RDC noted that much of Alaska has already been withdrawn into conservation system units and is managed to high standards to protect and preserve the environment. Lands and rivers with outstanding scenic, recreational, geological, cultural and historical value are already withdrawn into these units.

The new withdrawals may well embrace valuable resources or access to resources needed by Alaska to develop its flourishing industries to support itself and its people. RDC stressed that much more study is necessary to adequately assess the resource potential of mineral provinces that would be restricted under the withdrawal. RDC urged access and development by the Wild and Scenic River designations.

Many of the rivers considered eligible by BLM for the Wild designation are accessible by highway or winter trail and landing strips and cabins are also found along some of the rivers. These factors are in conflict with BLM's criteria for the special designation.

In addition, the rivers proposed for the "Wild" classification lack a truly defined unique or outstanding remarkable value that would qualify them for the special designation. According to the Wild and Scenic River Act, a river must have one "outstanding remarkable" value to be eligible for classification. Many of the proposed rivers are listed as having scenic views of the surrounding mountains, but this alone should not be considered an outstanding value since most rivers in Alaska have impressive views of surrounding mountains and afford wildlife viewing, fishing and floatboarding opportunities.

Twenty-five rivers in Alaska have already been designated as Wild and Scenic Rivers. Many more rivers within Alaska's vast conservation system units are in effect being managed as Wild and Scenic Rivers. Other rivers throughout the state are managed to very high standards under a multitude of regulations to protect the environment.

RDC elects new officers and board

William E. Schneider, Vice President and General Manager of Anchorage Sand and Gravel, has been named President of the Resource Development Council for Alaska, Inc., succeeding Ethel H. "Pete" Nelson.

A long-time board member of RDC, Schneider served as Executive Director and Chief Executive Officer of Associated General Contractors (AGC) from 1985 to 1989. Prior to joining AGC in 1981 as Director of Safety and Training, he worked in the construction field for 12 years.

Schneider was elected to a one-year term as President of RDC at the organization's Annual Meeting in Anchorage May 31. Other new officers include First Vice President Curtis Foster, Manager of Materials, Purchasing and Contracts for Arco Alaska, Inc., and Second Vice President John Rense, who serves as Vice President for Resources at NANA Development Corporation. Lin Garrison, Contracts Manager for the Municipality of Anchorage, was elected Secretary.

Laughman, a Senior Manager with KPMG Peat Marwick, was reelected as Treasurer.

The Council's new Executive Committee, which meets weekly in Anchorage to set policy and determine general direction and action, is comprised of Anchorage residents Rex Bishopp, John Forosiche, Curtis Foster, Mano Frey, Lin Garrison, Uwe Gross, Joe Henri, Roger Herrera, Larry Laughman, John Miller, Pete Nelson, John Rense, Bill Schneider, Shelby Stasny and Dave Stock. Other members include Dan Kock (Silta), Steve Rehnhag (Cordova), Mayor Jerome Selby (Kodiak), William Thomas (Juneau), Lyle Von Bargen (Valdez), and Dr. Bill Wood (Fairbanks).

New appointments to the statewide RDC board of directors include Anchorage residents Mike Begich, Jerry Booth, Rich Carson, Don Follows, Roger Herrera, Lowell Humphrey, Randy Kowalke, Pete Leathard, Chuck Meacham, Sr., John Norman, Dave Parish, Elizabeth Rensch Dirks, George Schmidt, Henry Springer and John Swanson. Other new appointments include Bill Blinv (Bethel), and Mayor Lynn Chrysal (Valdez).

The 90s have been dubbed the "Decade of the Environment." And that is or can be a positive label. But far too many people equate environment with no growth. The green lobby has put a "negative spin" on the very backbone of our Alaska economy. The oil, mining and timber industries have been "spun" with negative connotations. The green lobby would like us all to believe that development, in any sense, is intrinsically evil.

It's an interesting approach that the preservationists have taken, but I must admit they have been, to a large extent, successful. In the Lower 48 and Alaska, many people fail to see the connection between the final product that improves their lives and the raw material from which it comes.

It's our job to make that connection or Alaska's future is surely in doubt.
Emerging wetlands policy presents Alaska with tough problem

Wetlands policy could block future economic growth throughout Alaska

(Continued from cover)

to propose a new Abbreviated Processing Procedure (APP) for routine, non-controversial activities related to oil and gas development on the North Slope. Such an APP has been in existence since 1983 and has worked well. The new one has been universally condemned by North Slope operators as unnecessarily complex, too costly and too time-consuming without any redeeming environmental benefits. In other words, bureaucracy for its own sake, justified by the MOA. The end result is likely to be a refusal by permitees to use the abbreviated process to the detriment of themselves and the Corps of Engineers.

The major impact of the MOA on Alaska is still to come. It will have two fundamental effects. The first one will make it very difficult and often impossible to obtain a permit for any development on wetlands. At the same time the cost of such development will be considerably higher than in the past because of the requirement for compensatory mitigation for the wetlands used.

The fact that the wetlands may be private land owned by a property taxpaying individual is probably immaterial as is the fact that the wetlands may be part of a municipal land use plan which, after responsible public input, may well have been deliberately zoned for development. The City of Juneau has already run foul of the Environmental Protection Agency by ignoring its regional zoning plan. Protecting some wetlands is apparently no longer enough, all wetlands have to be preserved. That concept is fine, until as is the case in Juneau, there are no drylands around to be used for normal growth purposes.

Alaska has used its wetlands more responsibly than any other state in the nation. Only 80,000 acres of wetlands have ever been utilized out of the 170 million acres of wetland inventory within Alaska’s borders. This is 0.05% use of wetlands. The next most responsible state is Maine which has used 20% of its wetlands, while 23 of the states have effectively destroyed over half of their wetlands. Alaska is not part of the problem, but it is being made part of the solution, and the solution will result in no further growth in the 48th state. This is obviously draconian and unacceptable.

The second major impact of the MOA is that the controversy associated with it stirred up the more extreme environmental groups. They are now using all means to nail down “no net loss” of wetlands regardless of the effect of such a simplistic notion. The responsible process that the Bush Administration set up through the Domestic Policy Council to consider all aspects of the wetland problem and arrive at a solution which takes into consideration the concerns of affected states, is being sidetracked by deliberate efforts to seduce Congress into premature action on wetlands.

Coastal zone management bills are being used as vehicles for sweeping wetlands legislation which augurs no good for Alaska. The unique circumstances in Alaska, which should be justification for an Alaska exemption, are politically unacceptable these days no matter how strongly justified.

Alaskans have a tough problem on their hands. Alaska without growth, and with declining revenue from oil, is not a comforting scenario. The MOA on wetlands puts the state firmly on notice that some federal agencies are more concerned with Alaska’s pristine environment for wildlife than a practical environment for people. Alaska can and must have both, but unless Alaskans fight for reasonable wetlands solution, they are likely to have an unreasonable one forced upon them to the benefit of no one.

Reforms needed to solve Alaska wetlands problem

By Bill Ham
Alaska Wetlands Coalition

The regulatory reach of the federal wetlands permit program promises to grow longer and an undeﬁned goal of “no net loss” of wetlands is driving this lengthened reach.

Alaska has over 170 million acres of wetlands and compared to other states has conserved the highest percentage of its original wetlands. Conversely, it has the most to lose from an ill-deﬁned goal that expands the power of regulatory agencies. As a result, land uses in nearly half of Alaska will be subject to onerous new federal controls.

Alaska’s circumstances are radically different than those faced in other states. There a large proportion of highly valuable wetlands have been lost. A no net loss program is apparently designed to stem further losses and provide for wetlands restoration.

In contrast, millions of acres of Alaska’s wetlands are of low value and provide few, if any, traditional wetland beneﬁts such as ﬂood control, water ﬁltering, and quality habitat. A minuscule percentage of Alaska’s wetlands have been lost and many millions of acres of wet areas are created by permanent — conditions unique to the 48th state.

Although many federal ofﬁcials know of the wetlands problem in the context of the North Slope, there is growing recognition of the enormous prospective impacts on communities, small businesses, native corporations and others. Attempts to impose a rigorous goal of no net loss of millions of acres of lands that provide no real wetlands functions and very limited values would impose a grievous burden on Alaskans.

These special features must be addressed by any sensible wetlands conservation program.

An exemption would be straight forward and could solve many prospec-}

Tailoring the Section 404 program so that it advances the goal of conserving dwindling, valuable wetlands and does not impose undue restraints of Alaska may be more productive. Investigation by the Alaska Wetlands Coalition reveals that at least seven specific programmatic reforms are needed to successfully reform the Section 404 program:

(1) Amend and limit the existing overarching definitions of wetlands subject to Section 404 regulations,
(2) Establish a discriminatory system keyed to the function, value and relative abundance of affected wetlands,
(3) Create a ﬂexible mitigation process in which all mitigation steps can be considered throughout the permit decision process,
(4) Allow balanced decision-making by considering the public beneﬁts of the proposed activity as well as the potential effects on wetlands values,
(5) Liberalize the “water dependency test” so that projects other than docks, harbors, etc., are eligible for a reasonably applied alternatives analysis,
(6) Prohibit mandatory “interstate” compensatory mitigation,
(7) Facilitate the ability of states and local governments to assume jurisdiction over the Section 404 program and tailor the program to local conditions.

The White House has set up an inter-agency Wetlands Task Force to grapple with no net loss and Section 404 reform. The Task Force plans to visit Juneau and Mayport with a hearing and conduct field trips to learn about these issues. Alaska’s concerns must be clearly presented to the Task Force.

Alaska’s future growth and opportunity may be at risk if the White House does not reform and crafting needed regulatory changes. No one can afford to sit on the sidelines and put Alaska’s future growth and opportunities at risk.

The Alaska Wetlands Coalition has been set up to get this job done. Your support of the Coalition will ensure that the right message gets delivered to key federal decisionmakers. Your help is needed to make the case for reform and crafting needed regulatory and statutory changes. No one can afford to sit on the sidelines and put Alaska’s future growth and opportunities at risk.