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Anglers and Air Pollution

Why we should be upset over the Bush Administration's gutting of the Clean Air Act

By Ted Williams

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Like his father, George W. Bush is a fisherman. But unlike his father or any past president, he is emasculating America's oldest and most successful environmental laws, laws that protect and restore fish and the ecosystems in which they function. Reflect on the Clean Air Act. Since passage in 1970 it has reduced airborne lead by 98 percent. Emissions of sulfur dioxide, the main cause of acid rain, are down almost a third from 1993. A sharp decline in carbon monoxide emissions has produced a measurable decline in human deaths. There is no question that the Clean Air Act has been a stunning success.

So it is perplexing and disturbing to see Mr. Bush rendering it ineffective. In so doing, he ensures that fish will continue to be dangerous to eat throughout much of North America. This, of course, isn't just about our food. Fish are indicator species; the fact that they're so full of bioaccumulating airborne toxins that they are killing piscivorous creatures, humans included, means that our planet's life systems are desperately, systemically sick. Currently 43 states have health advisories against eating fish. In 19 the advisories are statewide.

Anglers need to pay just as much attention to air pollution as water pollution. For example, something has gone terribly wrong with Atlantic salmon restoration; but, with a few exceptions, the trouble isn't in the rivers. Juvenile salmon are thriving in freshwater, then disappearing into a black hole at sea. It's happening not just in New England but to the species throughout much of its ocean habitat as well. Satellite imagery reveals drastic cooling in the North Atlantic, and the favored theory attributes it to runoff from the melting ice cap, caused by greenhouse gases.

Consider also two of the more damaging airborne toxins-mercury and polychlorinated biphenyls (PCB's). When mercury hits water, bacteria transform it into methylmercury-a neurotoxin that destroys brains, eyes and spinal cords, especially in young children and fetuses. Symptoms include blurred vision, slurred speech, hearing loss, memory loss, coma and death. PCB's produce some of the same symptoms, cause cancer, and reduce IQ's in children.

As a general rule, the better-tasting the fish, the more dangerous it is to eat. For instance, according to the Vermont Department of Health, women of childbearing age and children under six should never eat walleye, not even one. And according to a study by the Environmental Working Group, farmed salmon is "likely the most PCB-contaminated protein source in the U.S. food supply"-16 times more so than wild salmon (unless they're from the Great Lakes). My home state of Massachusetts advises women of childbearing age and kids under 12 to not eat fish from "rivers, lakes and ponds," which doesn't leave them a whole lot unless they happen to fish in the ocean, where the state warns them not to eat bluefish or tuna, and where the FDA warns them (and women and kids everywhere) to avoid swordfish, shark, tilefish and king mackerel. Haddock and cod might be okay (or at least wouldn't poison you so badly), but there are scarcely any left (see Conservation, November/December 2003).

The fact that women and kids should limit or cease consumption of a long list of delicious species doesn't exactly make the rest of us want to dig in. Some states have complicated formulas that let you

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eat, say, one lake trout or salmon per month, if it's under a certain length. But after all the measuring and all the calendar flipping, who's hungry? Rhode Island says women and kids shouldn't eat striped bass. Supposedly, stripers are okay in Massachusetts, but because they move back and forth between the two states with each tide and since I can never tell exactly where I am anyway, I don't think I'll be serving striper to my daughter, daughter-in-law or granddaughter.

I have it from Rhode Island and Massachusetts that the one fish we can all feel good about eating is a "stocked trout." However, I don't fish for stocked trout because of the way they look and behave; I don't eat them when I accidentally catch them because of the way they taste; and the fact that they're relatively poison-free should comfort few health officials because 99 out of 100 license holders couldn't tell a hatchery trout from a wild one if it rolled over and jabbed them with the stumps that used to be pectoral fins.

Mercury is responsible for about 60 percent of the fish-consumption advisories. And coal-fired power plants are the largest source of mercury pollution. In addition, these power plants emit 65 percent of the nation's sulfur dioxide pollution, which damages aquatic ecosystems by acidifying them and mobilizing soil-bound aluminum and mercury.

Mercury polluters other than utilities and coal companies have been subject to strict regulation. For example, medical and municipal incinerators have been ordered to reduce mercury emissions by 94 and 90 percent respectively. Mandated mercury reduction by paint and pesticide manufactures cut domestic sales of mercury by 75 percent from 1988 to 1996. But so aggressively have the utilities and coal companies lobbied against mercury regulation that Congress specifically exempted them under the far-reaching 1990 Clean Air Act amendments. Even today there is still no federal rule for this source of mercury, though thanks to a citizens' lawsuit, the US Environmental Protection Agency (EPA) is under a court order to require "maximum achievable control technology" by 2007.

The Clean Air Act exempts plants built before its passage from modern emissions standards. But, under a program called "New Source Review," companies must install the "best available retrofit technology" if they rebuild or expand a plant in ways that increase pollution. As a result, utilities use their oldest, dirtiest facilities to gain unfair cost advantages by implementing massive, enormously expensive modifications which increase production and pollution but which they claim are "routine maintenance." EPA finally got fed up with the ruse, and in November 1999 the Clinton Justice Department sued nine companies for illegally expanding, sans retrofits, 51 power plants in 12 states. A month later New Jersey's then governor, Christine Todd Whitman, announced that her state would join the federal lawsuit. Shortly thereafter presidential candidate George W. Bush started sounding like a Sierra Club activist. In September 2000 he promised to "establish mandatory reduction targets for four main power-plant pollutants: sulfur dioxide, nitrogen oxides, mercury and carbon dioxide" and to "propose legislation that will require electric utilities to reduce emissions and significantly improve air quality."

But even before Messrs. Bush and Cheney assumed office, utilities and fossil-fuel industries were hissing in their ears. The Edison Electric Institute-a trade group comprised in large measure by the defendants in the federal action-had at least 14 contacts with Cheney's secret energy task force. The American Gas Association (part of the oil industry whose refineries belch forth vast quantities of sulfur dioxide, nitrogen oxides, particulates and volatile (often toxic) organic compounds) had at least eight contacts. Enron (heavily invested in energy production) had at least four contacts and met with Cheney at least six times. In March 2001 Senators John Breaux (D-LA) and James Inhofe (R-OK) wrote to the vice president, claiming that the lawsuits were inconveniencing the power industry and demanding that, as chairman of the National Energy Policy Development Group, Cheney make the lawsuits go away. But the major power companies and their cronies wanted more than just an end to the lawsuits; they wanted an end to New Source Review.

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www.scottchurchdirect.com >> www.scottchurchdirect.com/ted-williams-archive.aspx/2004

Mr. Bush's commitment to clean air proved brief as summer love. As soon as he was in the White House he broke his campaign promise to reduce carbon emissions. Then he reneged on the nation's commitment to the Kyoto Protocol, an international treaty to reduce greenhouse gases.

On May 15, 2001, following intense lobbying by the power industry to kill the New Source Review lawsuits, Christine Todd Whitman-now Bush's EPA administrator-assured Congress and the nation that the White House had no intention of doing any such thing. Forty-eight hours later the administration released a plan by which the US Attorney General, taking as long as he liked, would evaluate the lawsuits to see if they were causing energy problems. At the same time the EPA and the Department of Energy would vet the entire New Source Review program to determine if it were holding back power-plant enhancement. The White House denied that it was dilly-dallying with the lawsuits or that it had frozen them, but it was impossible for anyone paying attention to reach any other conclusion. The perception of fact emboldened Cinergy Corporation of Cincinnati, the nation's second biggest sulfur-dioxide polluter, to back out of a court settlement with the Justice Department by which it had agreed to pay fines of \$8.5 million, perform \$21 million worth of projects that benefited the environment, and spend \$1.4 billion cleaning up 10 coal-fired power plants in Indiana, Ohio and Kentucky. The deal would have annually removed 100,000 tons of nitrogen oxides and 400,000 tons of sulfur dioxide from North American air. Other utilities followed suit.

Then, on June 22, 2001, the EPA released its New Source Review findings, reporting that the program had in no way interfered with energy production and that the industry's woes resulted not from environmental regulation but economic climate. This was a fact that air polluters and their friends in the administration didn't want to acknowledge.

On August 28, 2003, in the most significant revision of the Clean Air Act in its 33-year history, the administration finalized a rule that basically does away with New Source Review, permitting some 500 antiquated power plants and 20,000 factories, gas-oil industry refineries and other industrial facilities to increase production without installing modern pollution controls. According to the General Accounting Office, the new rule was hatched without "comprehensive data" and is based on "anecdotal evidence from industries."

The reaction among former EPA officials, environmentalists and downwind states was outrage and disbelief. New Jersey, Georgia, North Carolina, Wisconsin, South Carolina, California and the cities of Cincinnati and Dayton, Ohio, began developing their own, tougher air-pollution rules. Other states are expected to do the same. New York, New Jersey and all the New England states have filed suit. "The Bush Administration is again putting the financial interests of the oil, gas and coal companies above the public's right to breathe clean air," New York's Attorney General Eliot Spitzer said. "It is incumbent on the states to take action to ensure that the public health and environment are protected."

In July 2002 the EPA's assistant administrator for air policy, Jeffrey Holmstead, told Congress that his agency did "not believe these [proposed rule] changes will have a negative impact on the enforcement cases." But his own enforcement agents had repeatedly informed him and other EPA officials that the scuttling of New Source Review would be catastrophic for future enforcement of the Clean Air Act.

The President has submitted to Congress a plan he claims "will replace a confusing, ineffective maze of regulations for power plants" and, at the same time cut their emissions of mercury, sulfur dioxide and nitrogen oxides by 70 percent by 2018. Instead of ordering their clean up, under the new plan old, dirty plants would be allowed to purchase pollution credits from modern, cleaner plants. "The Clear Skies Initiative," Bush calls it.

Located at:

www.scottchurchdirect.com >> www.scottchurchdirect.com/ted-williams-archive.aspx/2004

There are a number of problems here. First, although there's nothing wrong with the idea of selling credits for relatively benign pollutants such as carbon that get widely distributed in earth's atmosphere, it's a bit heartless to hawk credits for deadly, bioaccumulating nerve poisons such as mercury. Basically, the Bush Administration is telling the American people this: If you live downwind of a modern power plant, lucky you; if you live downwind of a pre-Clean Air Act relic, suck it up.

Another problem is that Clear Skies is a lot worse than just enforcing the existing Clean Air Act. Instead of requiring 70 percent cuts in sulfur dioxide and nitrogen oxides by 2018 as allowed under Clear Skies, the current regulations require cuts of almost 90 percent by 2007. By 2025 Clear Skies would allow nearly five times as much additional mercury releases as the Clean Air Act.

Clear Skies would replace the EPA's court-ordered 2007 implementation of mercury-regs with credit trading until 2018. And Bush's own Department of Energy has released a report showing that the Clear Skies initiative won't even remove the modest amount of mercury the administration says it will. Clear Skies fails to address carbon pollution, the main cause of global warming. Finally, in October, 2003 the White House directed the EPA to set mercury reduction targets that could commit the agency to supporting standards even weaker than those the President had called for. Apparently, the strategy is to weaken the Clean Air Act to the point that Bush can claim Clear Skies is stronger. "We're very pleased to see that the president has given us until 2018 to make these reductions," says the National Mining Association. I'll bet it is.

It's not just that air polluters have a direct line to the Bush administration; it's that they are part of the administration. The President, Vice President, commerce secretary and national security advisor are former oil executives (and please bear in mind that, through their refineries, oil/gas companies are right up there with coal-fired power plants as the nation's worst air polluters). Whitman's replacement at EPA is Michael Leavitt, who before becoming Utah's anti-regulation, pro-air-pollution governor, had served on the boards of PacifiCorp and Utah Power and Light. James Connaughton, chair of the White House Council on Environmental Quality, provided legal representation to the Aluminum Company of America, ASARCO, Atlantic Richfield, the Chemical Manufacturers Association, and General Electric. Jeffrey Holmstead, an EPA assistant administrator, provided legal representation for front groups called the Ad Hoc Industry group on Regulatory Reinvention and the Alliance for Constructive Air Policy.

At Bush's Interior Department alone the following officials were part of North America's air pollution problem: J. Steven Griles, deputy secretary-gas, oil and mining lobbyist; David Bernhardt, director of congressional and legislative affairs-lobbyist for the gas and oil industry; Rejane Burton, director of the Mineral Management Service-gas-and-oil exploration executive; Matthew Eames, chief congressional and legislative affairs for the Bureau of Reclamation-lobbyist for Idaho Power; Paul Hoffman, deputy assistant secretary for fish and wildlife and parks-a leading voice in promotion of snowmobiles in Yellowstone; Jeffrey Jarrett, director, Office of Surface Mining-coal executive; Kit Kimball, director Office of External and Intergovernmental Affairs-head of the Western Regional Council where she promoted utilities and coal companies; Conrad Lass, chief of staff to BLM director-utility executive; Patricia Morrison, deputy assistant secretary, Land and Minerals Management-attorney for oil and gas industry; Drue Pearce, senior advisor for Alaskan affairs-consultant for Arctic Slope Regional Corporation; Edward Shaw, special assistant to the Minerals Management Service-ARCO executive; James Tate, science advisor to the Secretary-Atlantic Richfield executive; Camden Toohey, special assistant to secretary for Alaska-director of Arctic Power; Rebecca Watson, assistant secretary of Land and Minerals Management-provided legal representation for oil, gas and mining companies.

What makes the assault on the Clean Air Act even more disturbing is the duplicity with which it is being conducted. Administration officials have consistently concealed and changed data to fit industry's desires. And they've secretly enlisted the help of anti-environment, ultraconservative lobby groups,

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such as the Competitive Enterprise Institute, to undermine good science paid for by the public and to discredit their own people, including Christine Todd Whitman. White House officials-among them Phil Cooney, chief of staff at the White House Council on Environmental Quality-asked the Competitive Enterprise Institute to help them play down an EPA report which, for the first time, admitted that global warming is partially caused by humans. In an e-mail leaked to the press Myron Ebell, a director of the Competitive Enterprise Institute, thanked Cooney for "calling and asking for our help" and observed: "It seems to me that the folks at the EPA are the obvious fall guys and we would only hope that the fall guy (or gal) should be as high up as possible. . . . Perhaps tomorrow we will call for Whitman to be fired." Whitman, a decent, competent official who had fought bitterly with the administration over its effort to gut the Clean Air Act and the Clean Water Act and who had had it with this sort of sleazy maneuvering, stepped down (by choice, she claims) in June 2003.

Another leaked EPA memo discusses methods of dealing with White House rewriting of the climate-change section of a national environmental survey and states that, because of the rewriting, the section "no longer accurately represents scientific consensus on climate change." In the draft edited by the White House the following statement was missing: "Climate change has global consequences for human health and the environment." Also missing were sections on the ecological effects of global warming and its impact on human health, a temperature record for the last millennium and sentences calling for research into global warming. What's more, the White House sprinkled in waffle words like "may" and "potentially," eliciting the complaint by the EPA that "uncertainty is inserted where there is essentially none." When the report came out last June the entire section on global warming had been deleted by the EPA because it was no longer scientifically credible. The administration has consistently made it clear to scientists at the EPA and other agencies that they will be punished for finding and publishing information it doesn't want the public to know. As a result morale is at an all time low.

Publishing information on air and water quality suppressed by the administration should be one of the main responsibilities of the outdoor press; but, with few exceptions, it hasn't risen to the occasion. As a result, the environmental record of President Bush astonishes sportsmen who aren't still in denial about it. Apparently they hadn't been reading the right publications (such as newspapers). Even when Bush was governor of Texas he was keeping his state's air filthy by implementing a system of voluntary pollution controls for oil refineries.

Perhaps the most influential outdoor writer/publisher/promoter alive is Ray Scott, founder of the 600,000-member Bass Anglers Sportsman Society. Scott has done all sorts of wonderful things for conservation, not the least of which is almost single-handedly establishing bass-fishing's catch-and-release ethic. And yet in September 2000 he was able to write the following about candidate Bush: "Fishing clears the mind and connects you to the Creator. It's not complicated nor too sophisticated, but personally I welcome the leadership of a president who understands that. . . . George W. Bush understands the real meaning of fishing. . . . He knows what it is to be in Nature. . . . Having a fisherman's friend-an outdoorsman-in the White House is vital to the understanding of the outdoors and conservation concerns."

I've known Scott for 24 years and have always been impressed with his savvy, so I dared to hope that the reality of a Bush White House had helped him see through all the campaign rhetoric and PR smog of four years ago. After all, if he could educate himself, maybe other outdoor media people could do the same. Then, perhaps, we all could educate sportsmen. So on October 29, 2003 I phoned Ray Scott to ask if he still considered George W. Bush "a fisherman's friend."

"Absolutely," he told me.