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The Perils of Ignoring (or Misunderstanding) Politics and Organizing

David Johns*

Abstract: Conservation scientists and advocates were surprised by the U.S. Congress stripping away protection for wolves in the US northern Rocky Mountains. If they had paid attention to earlier political lessons in which court victories had been undermined by determined political organizing they would not have been surprised and could have adopted strategies that would have given them much more leverage with elected officials. Instead conservationists were out-organized and elected officials normally supportive of the U.S. Endangered Species Act responded to anti-wolf groups because they brought more pressure to bear than conservationists. Although political lessons are specific to the system in which decisions are made, they can also be generalized: political influence is exercised not just formally but informally through mobilization of economic leverage, organized mass action, framing of issues and other means, by which decision makers are rewarded and punished. The full political landscape must be the theater action, not just a part of it.

Key words: U.S. Endangered Species Act, delisting, wolves, grassroots organizing, mass mobilization, strategy, politics.

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The Perils of Ignoring (or Misunderstanding) Politics and Organizing

Many conservation biologists and politically informed NGOs were not only appalled but surprised when the U.S. Congress delisted wolf populations in the northern US Rocky Mountains (Herring 2011). Wolves in this region were protected pursuant to Endangered Species Act, a federal law requiring that endangered species be recovered. Delisting, under the law, occurs when a species is appropriately found to be recovered (no longer endangered) by the agency responsible for recovery, in this case the US Fish and Wildlife Service (USFWS). The USFWS claimed recovery and issued rules to delist but these were challenged in the courts successfully (Alexander 2011). It is in this context, discussed fully below, that the US Congress acted to remove ESA protection from wolves in the US northern Rockies region. That delisting should be supported by legislators who had historically defended the ESA was profoundly unsettling to conservationists. At the same time at the global level conservation biologists were expressing a similar and growing disappointment that the world's governments were not delivering on their promises to protect biodiversity following the findings of the Millennium Ecosystem Assessment (MEA) (e.g. Perrings et al 2010a, 2010b).

To be appalled by the US Congress's decision or most countries failure to respond to the MEA is one thing; to be surprised is another. Both conservationist scientists and advocates too often fail to grasp the nature of power and resist acknowledging that science rarely persuades decision makers—carrots and sticks do. Carrots and sticks

include campaign contributions or the equivalent (Duffy 2007; Kamieniecki 2006; Fellowes et al 2004) control of media resources that help shape the frameworks and views of those groups in society that decision makers consider important (Duffy 2007; Kamieniecki 2006; Layzer 2007; Libby 1999), control of economic institutions whose cooperation is needed by political leaders (Kamieniecki 2006; Lindblom 1977; Grover 1989; Gonzalez 2001), control of information (Cogkianese 2007), and longstanding personal relationships based on shared interests or goals (Gonzalez 2001; Dye 2002; Domhoff 1998; Furlong 2007). These political resources are persuasive “arguments” because they help or hinder decision-makers in gaining or keeping power and advancing their own agenda. Sometimes science can be a carrot or a stick but it is rarely enough by itself. The case of the legislative delisting of wolves in the face favorable court decisions and broad public support for their recovery makes plain the cost of this denial of *real politick*.

On 15 April 2012 President Obama signed the Department of Defense and Full Year Continuing Appropriations Act (PL 112-10). Section 1713 of the law ordered the Secretary of Interior to reissue the 6 March 2009 rule removing wolves in Montana, Idaho and parts of Oregon and Washington from ESA protection which prohibited harming them except in a narrow range of circumstances as determined by the US Fish and Wildlife Service. The rule was dutifully reissued on 5 May 2012 (74 Fed Reg 25590 et seq). Section 1713 also removed the reissued rule from judicial review—a first in ESA history (Alexander 2011). It is significant that the March 2009 rule issued by the Obama Administration was the same as the rule issued by the Bush Administration on 14 January

2009*. It was issued by the Obama Administration without further scientific review (Bergstrom et al 2009) despite the Bush Administration's record of ignoring, suppressing and distorting scientific findings (e.g. Union of Concerned Scientists 2008) and indeed a long history of ignoring science in favor of politics by several agencies, including the USFWS (Robinson 2005). [*FN The 14 January 2009 rule was a modification of the Bush wolf delisting rule issued in March 2008. The 2008 rule was overturned as illegal in *Defenders of Wildlife v Hall* (565 F. Supp. 2d 1160 D. Mont 2008), for failure to show it provided for genetic exchange among subpopulations as required by the USFWS recovery plan. The revised rule issued in January 2009, inter alia, proposed human transport of wolves to meet the genetic exchange requirement and increased the recovery goal from 100 wolves/10 breeding pairs in each state to 150 wolves/15 breeding pairs.]

How Did This Come About?

In the decades before legislative delisting conservation NGOs repeatedly and successfully challenged inadequate federal wolf recovery actions in the northern US Rockies. They relied on citizen suit provisions in the ESA and other important laws passed in the late 1960s and early 1970s when conservation rode a wave of significant influence (Repetto 2006). By the 1980s both the executive and legislative branches had become hostile to conservation and litigation became much more critical (Bevington 2009). The hostility had roots in the transformation of US politics in the 1970s that resulted in one of the major parties (Republican) abandoning its conservation heritage while simultaneously increasing its ability to elect presidents and congresses (Critchlow 2011; Lambert 2008;

Gilgoff 2007; Mansbridge 1986), and in the other major party (Democratic) recognizing conservationists had nowhere else to go. Conservationists found themselves in an unenviable and weak bargaining position.

This unhappy (for conservationists) political situation is not confined to elected officials but extends to the agencies elected official direct through substantive and appropriations legislation and executive authority which includes political appointees. That the USFWS, which is responsible for wolf recovery and implementing the ESA generally, is highly susceptible to political influence from its own political appointees, Department of Interior political appointees, the White House, relevant congressional subcommittees, is well documented (Thomas 2003; Robinson 2005; Union of Concerned Scientists 2008; Bevington 2009). This is so despite the Services large cadre of excellent scientists who have seen their work at times ignored, suppressed and distorted by higher-ups—and not just during the Bush Administration. Certainly there are scientific differences over wolf recovery both within the USFWS, within and between other agency scientists, and scientists outside the agencies. Bergstrom et al (2009), for example, take issue with whether recovery can be considered achieved, *inter alia*, without proof of genetic exchange, when genetic exchange requires human transport, when the recovery population size is less than 1% the species original population size and exhibits depleted genetic diversity, and when management plans include hunting that disrupts pack structure and makes dispersal difficult.

The USFWS took six years after listing for recovery areas to be identified in 1981 (Robinson 2005). During the 1980s, as Congress periodically blocked funding for wolf recovery the Service leadership dutifully followed suit, delaying release of a wolf recovery plan for two years (until Aug 1987) when a lawsuit threatened (Robinson 2005). Between 1992 and 2002 70% of all species listed under the ESA were listed because of litigation. USFWS documents obtained in one of the first such suits show species were not listed for political reasons (Bevington 2009). Once listed, lawsuits are often needed to generate recovery plans and designation of critical habitat. The USFWS is not aggressive in pushing other agencies to cooperate with it under §7 of the Act and NGO lawsuits were needed to obtain cooperation via court order (Thomas 2003).

During the course of litigation which led up to the Congressional delisting the courts found that the USFWS ignored its own earlier scientific findings that genetic exchange between wolf subpopulations was necessary to “long-term persistence” (recovery) of the US Northern Rocky Mountain metapopulation (565 F.Supp.2d 1160, D.Mont. 2008). The court also rejected as inadequate the Service’s argument that genetic exchange might be occurring despite the lack of evidence and noted that the state management plans approved by the Service would increase the killing of wolves and thus reduce chances for exchange through dispersal. The same court found in a 2009 order that “(t)he Service had distinguished a natural population of wolves based on a political line, not the best available science.” (Case 9:09-cv-00077-DVM Document 93 Filed 09/08/2009: 9). In *Defenders of Wildlife et al v Salazar et al* (729 F.Supp.2d 1207, D Mont 2010) the Court

again found the Service seeking a political solution by contradicting its long established rule that a biologically “distinct population segment” could not be divided.

The proximate driver of White House and Senate leadership support for delisting, notwithstanding long-standing opposition by Democratic leaders and many Republicans to any state by state or species by species exceptions to the ESA, was Democratic Party leadership’s fears that Senator John Tester (Democrat-Montana) would lose his seat in 2012 and this might further cost them control of the Senate. They had some reasons to fear for Tester*, but how did Tester’s political fate come to be seen as hinging on wolf recovery? [*FN: Tester won re-election in 2012 by 28,000 votes or 4%--a healthy margin.]

Some electoral context is helpful. In 2006 Tester won the Democratic primary against an establishment candidate by 25 points relying on grassroots organizing. (In about 2/3 of US states voters in the various parties select the party’s nominees for office in an election prior to the election in which the office holder is selected.) However, he won the general election against 3-term incumbent Conrad Burns by only 3,000 votes. Republicans had targeted Tester for defeat in 2012 even before the District Court decision (*Defenders et al v Salazar*, 729 F. Supp. 2d 1207, D. Mont. 2010) that set up the Congressional delisting fight. In the two years leading up to the 2012 election Tester’s opponent, Representative Denny Rehberg (Republican-Montana), sought to mobilize his political base and distinguish himself from Tester by, inter alia, fanning controversy over wolf recovery,

state management of wolves and wolf hunting, and doing so using the same populist tone Tester had relied on in 2006.

The closeness of Tester's 2006 general election win in what analysts consider a Republican leaning state (McCain beat Obama by 2.2% in 2008) apparently dominated Democratic thinking despite Montana's two Democratic senators and a Democratic governor. It is true that Tester's opponent, Rehberg, won his 2008 statewide House race with 64% of the vote and his 2010 race with 60%. *But* in 2008 Democratic Senator Max Baucus took 73% of the vote and Democratic Governor Schweitzer 65% of the vote—wider margins than Tester's razor-thin win in 2006 or Rehberg's most recent win.

Rightly or wrongly fearing a close race, Democratic strategists were acknowledging through legislative delisting that Rehberg had made wolf delisting and state management of wolves a divisive issue with Tester on the wrong end of it. Rather than fight the issue on the merits the Democratic leadership and Tester wanted the issue gone.

How is it Tester and Democratic leaders felt they could not defend wolf recovery against Rehberg's attacks when there is broad popular support for wolves? That there is broad support for wolves and wolf recovery cannot be reasonably questioned. A 2002 meta-analysis of 38 studies undertaken between 1972 and 2000 inclusive shows a majority of Americans support wolves and wolf recovery (Williams et al 2002). Some studies—it is unclear how many—allowed people to respond neutrally to wolves and about 25% did so. Support for wolves varied by region, urban compared to rural residence, gender, political

party and other factors. More temporally relevant to the case at hand may be a 2011 poll finding that 87% of Americans and 79% of Westerners viewed wolves were a vital part of wilderness and the US's natural heritage (Harris Interactive 2011: 5). Only 4% were neutral or refused to answer. Similar results obtained in the US Southwest (Research and Polling, Inc 2008a, 2008b).

Tester, of course, had to win in Montana, not “in the Western US.” But regardless of the locus of his electoral district public opinion polls do not translate into policy in conservation or in other policy areas. Both Democratic and Republican Party political calculus recognized this while conservation reasoning did not.

- It is not opinion poll results that are persuasive but action and the resources actors have at their disposal to affect outcomes, such as money, votes, media access and a compelling story and other resources. There is no general public—
 - Only groups that sit on the sidelines and groups that engage.
 - Only groups that know how to make a difference and those that fumble about.
 - Only groups that organize people to act and those that point to opinion polls.
- Most of those who care about wolves don't care enough to act on their own, indicating a weak commitment to their views; they must be mobilized to act.
 - They do not vote based on the wolf issue (a pro-wolf population and anti-wolf Congress is not a political anomaly).

- Of those who care about an issue, it is the side that is best organized and otherwise wields relatively greater resources that usually makes its influence most strongly felt: those who can deliver more votes, more money (the 2008 US elections cost \$6 billion; the 2010 election \$5 billion; the 2012 elections \$7 billion), and who can successfully frame the debate (is the issue wolf recovery and ecological health or is the issue outside interference in local/state matters?) (e.g. Cashore & Howett 2006; Giugni 2004, Rucht 1999; Shaiko 1999; Etzioni 1968).

In sum, political decision makers were responding to the fact that conservationists compared to wolf opponents (including some elected officials in the US northern Rockies) brought fewer resources to bear and did so less effectively (Herring 2011). Conservationists litigated and pointed to polls in support of their views. They did precious little organizing. Anti-wolf forces organized their supporters reminding elected officials that they can deliver money, votes, op-eds and other communication resources to frame the debate successfully in the media and for many fence-sitters. Anti-wolf forces had the carrots and sticks in this fight. Even sympathetic elected officials in these circumstances rightly felt they had more to fear from anti-wolf organizations than pro-wolf recovery and healthy-ecosystem organizations. It was not safe to support wolves.

Why Did Conservationists Let This Situation Come About?

Most conservationists did not see the looming threat, at least with any specificity. They felt secure with broad public support and long-standing opposition to carving-out exceptions to the ESA. The legislative breach in the ESA, however, was not the first time court victories have been reversed or seriously undercut. Although the particular lesson conservationists should have had in mind is specific to the US political system—that political organizing can trump the results of science-based victories won in court under citizen lawsuit provisions—it is a mistake to exclusively rely on achieving goals through formal decision making processes at the expense grassroots organizing, which is the basis for the capacity to generate enough pressure on decision makers to overcome vested interests (e.g. Dryzek et al 2003; McAdam et al 2001).

The starkest example of that lesson was the political reaction to the January 23, 1973 US Supreme Court decision in *Roe v Wade* (410 US 113, 1973). The decision was not one the authors of the 7-2 decision thought would be controversial because it built on a long line of earlier decisions (what the US legal profession calls precedent, a major source of legitimacy for the courts). Reproductive rights groups hailed the decision as a great victory and their grassroots organizing in support of changing state laws on abortion faded—the court had struck them down. Rather than organizing in support of the court decision these groups moved on to other issues and to professional lobbying (Staggenborg 1991).

Those opposed to the *Roe* decision, however *did* start organizing. Fundamentalist Protestants joined conservative Catholics who had long fought state-level liberalization of

abortion laws. More importantly, cultural conservatives in the Republican Party leadership saw an opportunity to mobilize large numbers of people who were part of a demographic that had mostly abandoned politics after the Scopes “monkey trial” of the 1920s. Organizing against *Roe*, in part by building on the anti-Equal Rights Amendment (ERA) and anti-feminist backlash against cultural changes brought about by in the 1960s, and in part building on fears generated by the 1978 Carter administration’s threat to revoke tax exempt status for Christian schools that practiced segregation, millions of new voters were mobilized. Mobilization of these constituencies in the 1970s relied on grassroots techniques adopted from the civil rights and other mass movements. The leaders of this effort cobbled together an anti-abortion, anti-affirmative action, anti-ERA, anti-youth culture, anti-communist and anti-environmentalist and anti-government coalition that played a pivotal role in generating the Moral Majority and similar NGOs. It was a coalition that had no need of and little room for conservation. In alliance with conservative business interests, who were openly hostile to conservation, a very different Republican Party coalition emerged in the late 1970s, electing Ronald Reagan as president in 1980 (for historical and analytical accounts of this process see, inter alia, Mansbridge 1986; Gilgoff 2007; Lambert 2008; Critchlow 2011). Reagan alone appointed half of the Federal judiciary (Federal Judicial Center 2012) and they whittled away at *Roe* and other laws, including environmental laws in subsequent decades (Staggenborg 1991; Liptak 2009).

Cultural conservatives, allied with economic conservatives and most of the resource extraction industry elected both Bushes and gave Clinton (more of an Eisenhower

Republican than anything else) a conservative Republican Congress for 6 of his 8 years. Wealthy conservatives, including extractive industries, bankrolled some of this organizing in the early stages and much more later, realizing it was the path to an electoral majority and a White House and Congress supportive of their interests. They funded right-wing think tanks that attempted to give a gloss of intellectual legitimacy to, inter alia, the destruction of biodiversity (Beder 2001; Jacques et al 2008).

While all of this was going on grassroots conservation groups, facing a mostly hostile federal government since the 1980s, lobbied defensively, did some organizing but lacked the means to do it on a mass scale. Many litigated or worked at the state level (Bevington 2009). Others sought to reawaken the movement with a bolder vision and action and had some success. (Foreman 2004)

The large conservation groups devoted themselves to an almost exclusively insider strategy, relying on ordinary channels of access, and mostly abandoned grassroots organizing with some exceptions (Shaiko 1999; Rootes 2006). This strategy failed to take account of the fact that conservation NGOs lack the chips to play a solely insider strategy successfully. Conservationists could not match the money, deliver the votes and bring the other resources to bear that their opponents could. They won some battles but biodiversity continued to decline. They ignored a primary political lesson: relatively weaker groups can successfully counter opponents' greater resources and shift policy in the desired direction only by *combining* their insider work with an outsider strategy of mass mobilization (McAdam et al 2001; Johns 2009).

An outsider strategy is one that creates new power from the bottom-up by mobilizing important groups to go around the normal channels of influence and bring pressure via mass protest, non-cooperation, direct action, and by creating alternative societal stories (myths) and sometimes new institutions. Successful outsider strategies create leverage that can bring about major reform, such as the end of legally mandated racial segregation in the US South or the passage of major US environmental and conservation laws as in the 70s (Banaszak 1996, McAdam et al 2001, Piven 2006). The burst of environmental and conservation lawmaking in the late 1960s and early 1970s was also due to the growing unpopularity of the Vietnam war and the desire of a besieged president to support popular policies and by the failure of eventual opponents of many of these laws to foresee their consequences (Flippen 2000).

The mass mobilization at the heart of outsider strategies hinges on grassroots organizing of strategically important groups of people: they must be identified, understood, approached with compelling stories about why they should act and act in specific ways, and integrated into organizations. A strong sense of community must be built. Action must be orchestrated. Outsider strategies bring elite ridicule, outrage, condemnation and often repression. But they are the only thing that has brought about major change.

Some Lessons from Wolf Delisting

Lessons from the legislative delisting of wolves apply to most conservation issues, such as climate change.

-Science is not enough; when it comes to influencing decision makers the quality and quantity of a group's political resources is at least as important, and usually more important, than the quality of its science.

-Controversial litigation victories (and similar types of formal victories) need broad, *deep and active* support to last; this requires ongoing organizing.

-Movements that consist mostly of NGOs that rely on check-writers and postcard writers cannot generate the mass grassroots action that provides the leverage for major change. Protest, non-cooperation and other mass displays are critical (Tilly 2004).

-Politics is about using carrots and sticks decisively and intelligently. Success requires tending the carrot patch and accumulating and honing plenty of sticks.

These lessons are not new. They explain why US President Johnson sat down with civil rights leaders to try and defuse growing protests and put his full weight behind passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 (Garrow 1986) and why South African President de Klerk sat down with The African National Congress to bring about the end of Apartheid when they did (Wood 2000). Conservationists ignore these lessons at biodiversity's peril. Scientists may not lead grassroots mass mobilization efforts—though sometimes they have—but they need to understand the limits of merely presenting the science of biodiversity loss and recovery to the Prime Minister at lunch.

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