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Leaving No Tracks

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Sue Ellen Wooldridge, the 19th-ranking Interior Department official, arrived at her desk in Room 6140 a few months after Inauguration Day 2001. A phone message awaited her.

"This is Dick Cheney," said the man on her voice mail, Wooldridge recalled in an interview. "I understand you are the person handling this Klamath situation. Please call me at -- hmm, I guess I don't know my own number. I'm over at the White House."



The vice president has intervened in many cases to undercut long-standing environmental rules for the benefit of business. Here, Cheney is photographed during an August 2004 family vacation in Moose, Wyoming. Getty Images

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Wooldridge wrote off the message as a prank. It was not. Cheney had reached far down the chain of command, on so unexpected a point of vice presidential concern, because he had spotted a political threat arriving on Wooldridge's desk.

In Oregon, a battleground state that the Bush-Cheney ticket had lost by less than half of 1 percent, drought-stricken farmers and ranchers were about to be cut off from the irrigation water that kept their cropland and pastures green. Federal biologists said the Endangered Species Act left the government no choice: The survival of two imperiled species of fish was at stake.

Law and science seemed to be on the side of the fish. Then the vice president stepped in.

First Cheney looked for a way around the law, aides said. Next he set in motion a process to challenge the science protecting the fish, according to a former Oregon congressman who lobbied for the farmers.

Because of Cheney's intervention, the government reversed itself and let the water flow in time to save the 2002 growing season, declaring that there was no threat to the fish. What followed was the largest fish kill the West had ever seen, with tens of thousands of salmon rotting on the banks of the Klamath River.

Characteristically, Cheney left no tracks.

The Klamath case is one of many in which the vice president took on a decisive role to undercut long-standing environmental regulations for the benefit of business.

By combining unwavering ideological positions -- such as the priority of economic interests over protected fish -- with a deep practical knowledge of the federal bureaucracy, Cheney

has made an indelible mark on the administration's approach to everything from air and water quality to the preservation of national parks and forests.

It was Cheney's insistence on easing air pollution controls, not the personal reasons she cited at the time, that led [Christine Todd Whitman](#) to resign as administrator of the Environmental Protection Agency, she said in an interview that provides the most detailed account so far of her departure.

The vice president also pushed to make Nevada's Yucca Mountain the nation's repository for nuclear and radioactive waste, aides said, a victory for the nuclear power industry over those with long-standing safety concerns. And his office was a powerful force behind the White House's decision to rewrite a Clinton-era land-protection measure that put nearly a third of the national forests off limits to logging, mining and most development, former Cheney staff members said.

Cheney's pro-business drive to ease regulations, however, has often set the administration on a collision course with the judicial branch.

The administration, for example, is appealing the order of a federal judge who reinstated the forest protections after she ruled that officials didn't adequately study the environmental consequences of giving states more development authority.

And in April, the Supreme Court rejected two other policies closely associated with Cheney. It rebuffed the effort, ongoing since Whitman's resignation, to loosen some rules under the Clean Air Act. The court also rebuked the administration for not regulating greenhouse gases associated with global warming, issuing its ruling less than two months after Cheney declared that "conflicting viewpoints" remain about the extent of the human contribution to the problem.

In the latter case, Cheney made his environmental views clear in public. But with some notable exceptions, he generally has preferred to operate with stealth, aided by loyalists who owe him for their careers.

When the vice president got wind of a petition to list the cutthroat trout in Yellowstone National Park as a protected species, his office turned to one of his former congressional aides.

The aide, Paul Hoffman, landed his job as deputy assistant interior secretary for fish and wildlife after Cheney recommended him. In an interview, Hoffman said the vice president knew that listing the cutthroat trout would harm the recreational fishing industry in his home state of Wyoming and that he "followed the issue closely." In 2001 and again in 2006, Hoffman's agency declined to list the trout as threatened.

Hoffman also was well positioned to help his former boss with what Cheney aides said was one of the vice president's pet peeves: the Clinton-era ban on snowmobiling in national parks. "He impressed upon us that so many people enjoyed snowmobiling in the Tetons," former Cheney aide Ron Christie said.

With Cheney's encouragement, the administration lifted the ban in 2002, and Hoffman followed up in 2005 by writing a proposal to fundamentally change the way national parks are managed. That plan, which would have emphasized recreational use over conservation, attracted so much opposition from park managers and the public that the Interior Department withdrew it. Still, the Bush administration continues to press for expanded snowmobile access, despite numerous studies showing that the vehicles harm the parks' environment and polls showing majority support for the ban.

Hoffman, now in another job at the Interior Department, said Cheney never told him what to do on either issue -- he didn't have to.

"His genius," Hoffman said, is that "he builds networks and puts the right people in the right places, and then trusts them to make well-informed decisions that comport with his overall vision."

'Political Ramifications'

Robert F. Smith had grown desperate by the time he turned to the vice president for help.



Bush and Cheney, who lost Oregon by less than half of 1 percent in 2000, couldn't afford to anger thousands of Republican farmers and ranchers in the state during the 2002 midterm elections. Above, in 2001 a sign stands in a field near Klamath Falls, Oregon. Aurora/Getty Images

The former Republican congressman from Oregon represented farmers in the Klamath basin who had relied on a government-operated complex of dams and canals built almost a century ago along the Oregon-California border to irrigate nearly a quarter-million acres of arid land.

In April 2001, with the region gripped by the worst drought in memory, the spigot was shut off.

Studies by the federal government's scientists concluded unequivocally that diverting water would harm two federally protected species of fish, violating the Endangered Species Act of 1973. The Bureau of Reclamation was forced to declare that farmers must go without in order to maintain higher water levels so that two types of suckerfish in Upper Klamath Lake and the coho salmon that spawn in the Klamath River could survive the dry spell.

Farmers and their families, furious and fearing for their livelihoods, formed a symbolic 10,000-person bucket brigade. Then they took saws and blowtorches to dam gates, clashing with U.S. marshals as water streamed into the canals that fed their withering fields, before the government stopped the flow again.

What they didn't know was that the vice president was already on the case.

Smith had served with Cheney on the House Interior Committee in the 1980s, and the former congressman said he turned to the vice president because he knew him as a man of the West who didn't take kindly to federal bureaucrats meddling with private use of public land. "He saw, as every other person did, what a ridiculous disaster shutting off the water was," Smith said.

Cheney recognized, even before the shut-off and long before others at the White House, that what "at first blush didn't seem like a big deal" had "a lot of political ramifications," said [Dylan Glenn](#), a former aide to President Bush.

Bush and Cheney couldn't afford to anger thousands of solidly Republican farmers and ranchers during the midterm elections and beyond. The case also was rapidly becoming a test for conservatives nationwide of the administration's commitment to fixing what they saw as an imbalance between conservation and economics.

"What does the law say?" Christie, the former aide, recalled the vice president asking. "Isn't there some way around it?"

Next, Cheney called Wooldridge, who was then deputy chief of staff to Interior Secretary [Gale A. Norton](#) and the woman handling the Klamath situation.

Aides praise Cheney's habit of reaching down to officials who are best informed on a subject he is tackling. But the effect of his calls often leads those mid-level officials scrambling to do what they presume to be his bidding.

That's what happened when a mortified Wooldridge finally returned the vice president's call,

after receiving a tart follow-up inquiry from one of his aides. Cheney, she said, "was coming from the perspective that the farmers had to be able to farm -- that was his concern. The fact that the vice president was interested meant that everyone paid attention."

Cheney made sure that attention did not wander. He had Wooldridge brief his staff weekly and, Smith said, he also called the interior secretary directly.

"For months and months, at almost every briefing it was 'Sir, here's where we stand on the [Klamath basin](#),'" recalled Christie, who is now a lobbyist. "His hands-on involvement, it's safe to say, elevated the issue."

'Let the Water Flow'

There was, as it happened, an established exemption to the Endangered Species Act.

A rarely invoked panel of seven Cabinet officials, known informally as the "God Squad," is empowered by the statute to determine that economic hardship outweighs the benefit of protecting threatened wildlife. But after discussing the option with Smith, Cheney rejected that course. He had another idea, one that would not put the administration on record as advocating the extinction of endangered or threatened species.

The thing to do, Cheney told Smith, was to get science on the side of the farmers. And the way to do that was to ask the National Academy of Sciences to scrutinize the work of the federal biologists who wanted to protect the fish.

Smith said he told Cheney that he thought that was a roll of the dice. Academy panels are independently appointed, receive no payment and must reach a conclusion that can withstand peer review.

"It worried me that these are individuals who are unreachable," Smith said of the academy members. But Cheney was firm, expressing no such concerns about the result. "He felt we had to match the science."

Smith also wasn't sure that the Klamath case -- "a small place in a small corner of the country" -- would meet the science academy's rigorous internal process for deciding what to study. Cheney took care of that. "He called them and said, 'Please look at this, it's important,'" Smith said. "Everyone just went flying at it."

William Kearney, a spokesman for the National Academies, said he was unaware of any direct contact from Cheney on the matter. The official request came from the Interior Department, he said.

It was Norton who announced the review, and it was Bush and his political adviser [Karl Rove](#) who traveled to Oregon in February 2002 to assure farmers that they had the administration's support. A month later, Cheney got what he wanted when the science academy delivered a preliminary report finding "no substantial scientific foundation" to justify withholding water from the farmers.

There was not enough clear evidence that proposed higher lake levels would benefit suckerfish, the report found. And it hypothesized that the practice of releasing warm lake water into the river during spawning season might do more harm than good to the coho, which thrive in lower temperatures. [[Read the report.](#)]

Norton flew to Klamath Falls in March to open the head gate as farmers chanted "Let the water flow!" And seizing on the report's draft findings, the Bureau of Reclamation immediately submitted a new decade-long plan to give the farmers their full share of water.

When the lead biologist for the National Marine Fisheries Service team critiqued the science academy's report in a draft opinion objecting to the plan, the critique was edited out by superiors and his objections were overruled, he said. The biologist, [Michael Kelly](#), who has since quit the federal agency, said in a whistle-blower claim that it was clear to him that

"someone at a higher level" had ordered his agency to endorse the proposal regardless of the consequences to the fish.



An estimated 77,000 salmon washed up on the banks of the Klamath River. Last year, the government declared a "commercial fishery failure" on the West Coast. Above, dead salmon line the banks of the Klamath River in Sept. 2002. AP

Months later, the first of an estimated 77,000 dead salmon began washing up on the banks of the warm, slow-moving river. Not only were threatened coho dying -- so were chinook salmon, the staple of commercial fishing in Oregon and Northern California. State and federal biologists soon concluded that the diversion of water to farms was at least partly responsible.

Fishermen filed lawsuits and courts ruled that the new irrigation plan violated the Endangered Species Act. Echoing Kelly's objections, the U.S. Court of Appeals for the 9th Circuit observed that the 10-year plan wouldn't provide enough water for the fish until year nine. By then, the 2005 opinion said, "all the water in the world" could not save the fish, "for there will be none to protect." In March 2006, a federal judge prohibited the government from diverting water for agricultural use whenever water levels dropped beneath a certain point.

Last summer, the federal government declared a "commercial fishery failure" on the West Coast after several years of poor chinook returns virtually shut down the industry, opening the way for Congress to approve more than \$60 million in disaster aid to help fishermen recover their losses. That came on top of the \$15 million that the government has paid Klamath farmers since 2002 not to farm, in order to reduce demand.

The science academy panel, in its final report, acknowledged that its draft report was "controversial," but it stood by its conclusions. Instead of focusing on the irrigation spigot, it recommended broad and expensive changes to improve fish habitat. [\[Read the final report\]](#)

"The farmers were grateful for our decision, but we made the decision based on the scientific outcome," said the panel chairman, [William Lewis](#), a biologist at the University of Colorado at Boulder. "It just so happened the outcome favored the farmers."

But [J.B. Ruhl](#), another member of the panel and a Florida State University law professor who specializes in endangered species cases, said the Bureau of Reclamation went "too far," making judgments that were not backed up by the academy's draft report. "The approach they took was inviting criticism," Ruhl said, "and I didn't think it was supported by our recommendations."

'More Pro-Industry'

Whitman, then head of the EPA, was on vacation with her family in Colorado when her cellphone rang. The vice president was on the line, and he was clearly irked.

Why was the agency dragging its feet on easing pollution rules for aging power and oil refinery plants?, Cheney wanted to know. An industry that had contributed heavily to the Bush-Cheney campaign was clamoring for change, and the vice president told Whitman that she "hadn't moved it fast enough," she recalled.

Whitman protested, warning Cheney that the administration had to proceed cautiously. It was August 2001, just seven months into the first term. We need to "document this according to the books," she said she told him, "so we don't look like we are ramrodding something through.

Because it's going to court."

But the vice president's main concern was getting it done fast, she said, and "doing it in a way that didn't hamper industry."



Cheney's insistence on easing air pollution controls led Christine Todd Whitman, shown with Secretary of State Colin Powell and Cheney aide Lewis "Scooter" Libby, to resign as EPA administrator. Getty Images

At issue was a provision of the Clean Air Act known as the New Source Review, which requires older plants that belch millions of tons of smog and soot each year to install modern pollution controls when they are refurbished in a way that increases emissions.

Industry officials complained to the White House that even when they had merely performed routine maintenance and repairs, the Clinton administration hit them with violations and multimillion-dollar lawsuits. Cheney's energy task force ordered the EPA to reconsider the rule.

Whitman had already gone several rounds with the vice president over the issue.

She and Cheney first got to know each other in one of the Nixon administration's anti-poverty agencies, working under [Donald H. Rumsfeld](#). When Cheney offered her the job in the Bush administration, the former New Jersey governor marveled at how far both had come. But as with Treasury Secretary [Paul H. O'Neill](#), another longtime friend who owed his Cabinet post to Cheney, Whitman's differences with the vice president would lead to her departure.

Sitting through Cheney's task force meetings, Whitman had been stunned by what she viewed as an unquestioned belief that EPA's regulations were primarily to blame for keeping companies from building new power plants. "I was upset, mad, offended that there seemed to be so much head-nodding around the table," she said.

Whitman said she had to fight "tooth and nail" to prevent Cheney's task force from handing over the job of reforming the New Source Review to the Energy Department, a battle she said she won only after appealing to White House Chief of Staff [Andrew H. Card Jr.](#) This was an environmental issue with major implications for air quality and health, she believed, and it shouldn't be driven by a task force primarily concerned with increasing production.

Whitman agreed that the exception for routine maintenance and repair needed to be clarified, but not in a way that undercut the ongoing Clinton-era lawsuits -- many of which had merit, she said.

Cheney listened to her arguments, and as usual didn't say much. Whitman said she also met with the president to "explain my concerns" and to offer an alternative.

She wanted to work a political trade with industry -- eliminating the New Source Review in return for support of Bush's 2002 "[Clear Skies](#)" initiative, which outlined a market-based approach to reducing emissions over time. But Clear Skies went nowhere. "There was never any follow-up," Whitman said, and moreover, there was no reason for industry to embrace even a modest pollution control initiative when the vice president was pushing to change the rules for nothing.

She decided to go back to Bush one last time. It was a crapshoot -- the EPA administrator had already been rolled by Cheney when the president reversed himself on a campaign promise to limit carbon dioxide emissions linked to global warming -- so she came armed with a political

argument.

Whitman said she plunked down two sets of folders filled with news clips. This one, she said, pointing to a stack about 2-1/2 inches thick, contained articles, mostly negative, about the administration's controversial proposal to suspend tough new standards governing arsenic in drinking water. And this one, she said as she pointed to a pile four or five times as thick, are the articles about the rules on aging power plants and refineries -- and the administration hadn't even done anything yet.

"If you think arsenic was bad," she recalled telling Bush, "look at what has already been written about this."

But Whitman left the meeting with the feeling that "the decision had already been made." Cheney had a clear mandate from the president on all things energy-related, she said, and while she could take her case directly to Bush, "you leave and the vice president's still there. So together, they would then shape policy."

What happened next was "a perfect example" of that, she said.

The EPA sent rule revisions to White House officials. The read-back was that they weren't happy and "wanted something that would be more pro-industry," she said.

The end result, which she said was written at the direction of the White House and announced in August 2003, vastly broadened the definition of routine maintenance. It allowed some of the nation's dirtiest plants to make major modifications without installing costly new pollution controls.

By that time, Whitman had already announced her resignation, saying she wanted to spend more time with her family. But the real reason, she said, was the new rule.

"I just couldn't sign it," she said. "The president has a right to have an administrator who could defend it, and I just couldn't."

A federal appeals court has since found that the rule change violated the Clean Air Act. In their ruling, the judges said that the administration had redefined the law in a way that could be valid "only in a Humpty-Dumpty world."

Staff researcher Julie Tate contributed to this report.

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