

Environmental regulation in the 1990s: God, Mill and the fuchsia car

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Angus King of Brunswick has found himself on both sides of the environmental regulation fence, as he notes in this address, which he delivered at the PURE '92 Conference. Here, he offers eleven observations about the state of environmental regulation in the '90s. An attorney, King is the president of Northeast Energy Management, Inc., which develops large-scale electrical energy conservation projects at commercial and industrial facilities. He also is host of Maine Watch, a weekly public affairs television program broadcast on WCBB and MPBN-TV. He was formerly vice president and general counsel of Swift River/Hafslund Company in Portland and also served as chief counsel to a U.S. Senate subcommittee.

I want to talk about the future of environmental regulation as it looks in the '90s, and as it may look in the next century. In the process, I will touch on some current issues and look at our environmental process in a contemporary context, and conclude with some suggestions which might be applicable to Maine.

The fundamental, unavoidable reality of the '90s is global economic competition. This is a new condition for the U.S. and it is going to put unprecedented pressure on environmental regulation and the environmental movement. So the challenge of the next decade is threefold: First is to maintain current levels of protection, not to slip backwards. Secondly, to expand protection where necessary. And third, and perhaps most important, we must vastly expand international environmental efforts. Pollution as it flows across national borders does not respect customs agents, oceans, or rivers and virtually all major environmental issues have an international dimension.

What I want to offer tonight is a personal view of the current state of environmental regulation. Since it is a personal view, I will provide some personal background, which is a little odd as it relates to these topics. First, I am an attorney. As such, I am process-oriented, and I have learned that there are always at least two views on every subject. Secondly, I have been involved on both sides of the environmental fence in Maine. In the mid-70s, I was the lobbyist for the Natural Resources Council of Maine and the Audubon Society at the Maine Legislature. I helped a young legislator named Jock McKernan get the Bottle Bill through the Legislature and was deeply involved with the Billboard Law, which removed bill boards from Maine highways. In 1987, I helped initiate and lead the campaign for the Land for Maine's Future program.

My professional experience, on the other hand, has given me some insight into the perspective of business. In the early '80s, I became in-house counsel for an energy development company that built small hydro-electric, biomass and gas co-generation plants. Ironically, I was paid in the mid-70s by the environmental organizations to advocate hydro-electric and biomass. In the early

'80s, when we started actually building hydro-electric and biomass plants, I became something of a pariah to those same groups.

It got to the point that I once suggested we hire out to the Chamber of Commerce of any given community, because any river that we looked at for a hydro project became the best in the world at something: the best salmon river, best trout river, best whitewater river. We could make a career of going around and looking at rivers, talking about hydro projects and suddenly creating world-class rivers. I still believe, by the way, that hydro is the cleanest and most benign source of energy available. To me, this experience substantiates Mort Sahl's famous statement that if you maintain a consistent political position in this country long enough, you will eventually be tried for treason. The company that I work for now develops large-scale energy conservation projects, so I am a good guy again, at least for the time being. All of this is background. I will turn now to eleven observations on the current state of environmental regulation:

Observation One: *Mill had it right.* John Stuart Mill in his famous essay, "On Liberty," said that the only reason that you should regulate private conduct is to prevent harm to others. In re-reading "On Liberty" the other day, I found one quote I would like to share with you: Mill defined tyranny as "unaccountable regulators and arbitrary rules." Under Mill's theory of preventing harm as the basis of legislation, air and water discharge controls, for example, are absolutely appropriate and Mill would not object. Whether Mill would approve of open space zoning, however, is another matter, which we will get to later. You always have to ask, "Are we preventing harm to someone else?"

Observation Two: *I never met a dioxin I did not dislike.* Measuring harm has become one of the growth industries of the '80s and '90s. The development of the technology to measure in parts per quintillion rather than parts per million can sometimes tell us more than we need to know and can lead to some very mischievous results. U.S. Office of Management and Budget Director Richard Darman made an insightful observation several years ago when he said that one of the greatest dangers of the '90s is our scientific capacity to discover and define ever-diminishing levels of risk. This, when combined with our society's apparent willingness to place an infinite value on every single human life, is bound to lead to investing more and more resources on smaller and smaller risks with less and less real return in actual risk reduction or health improvement.

The fundamental reality is that we live in a world of finite resources. We must think hard about where we are going to put those resources, rather than jumping from one problem-of-the-month club to another. Once you decide how to define the harm in terms of parts per million, parts per trillion, or parts per quintillion, the real question quickly becomes not, "Is it there?", but, "Is it there in sufficient quantities to be dangerous?" At this point, we get to some pretty significant questions of science in order to determine "how dangerous." To answer this question, you must provide a context. Just saying that there is dioxin (or whatever) does not mean it is necessarily a significant threat. If there is more dioxin in your belt buckle than there is from some other source, such as a smokestack, that smokestack may not necessarily be the end of the world. Additionally, part of this context must be the danger of not using the substance. A simple example: If no pesticides are used, perhaps we would have a much more limited supply of fresh fruit. We might not have health problems related to pesticides, but we might have scurvy. A very

current example: Removing asbestos, we now learn, may actually be a greater health risk than leaving the asbestos where it is. I have heard of a college that is spending something like \$750,000, in a time when they have a budget deficit, to rip out asbestos that is relatively inert in their library. We went through a burst of activity in the '70s and '80s to take out asbestos, which we now realize may have been an environmental and health disaster.

This leads to risk assessment. I love the title of EPA Administrator Bill Reilly's paper, "Ready, Fire, Aim." Here the federal government is talking about risk assessment, which is an attempt to determine what is really at risk, what are the real dangers and how to put the resources where the most significant problems are. Maine is also involved in this effort at a very early stage. There is an organization called ECO/ECO, Ecology and the Economy, that is run loosely out of the College of the Atlantic. A major initiative of that organization, which is made up of environmental people and business people, is to look at this question of risk assessment and prioritizing risk.

Observation Three: *From bad to averse.* We are quickly becoming the most risk-averse society in human history. Risk is the basis of all human progress. They say the bravest man in Europe was the first person to eat a tomato in the 1500s. No European had ever seen a tomato and that person took a risk. If he (or she) had not taken that risk, we would not enjoy bacon, lettuce and tomato sandwiches. Or, worse yet, spaghetti sauce. More seriously, if we become so risk averse, if we become so obsessed with protecting ourselves from every conceivable risk, that characteristic will in itself become an enormous barrier to human progress.

When I was in law school, we studied a string of cases in the courts in the early part of this century that involved the railroads and blasting to build tall buildings in cities. The result in all these cases was the same. The rule of law was that railroads (or blasters) always win. The reason was that judges at the turn of the century realized the overriding importance to the United States of having an intercontinental railroad system and developing our urban centers. Therefore, they looked the other way when there were injuries and damages caused by the building of the railroad, because they saw an overriding social good. Similarly with regard to blasting; when you blast, it shakes buildings nearby, pictures fall off walls, things fall over, occasionally walls crack. Those cases were never won by the plaintiffs. The judges knew that if plaintiffs could win blasting cases you could never build tall buildings in New York City. Again, it was a question of weighing limited levels of individual injury against the needs of the overall society.

I fear that in some cases we have reversed that whole presumption today. What infrastructure facilities in Maine could have been built 200 years ago if they faced the same rules we have today? To pick a very local example, in Portland everything from Fore Street to the water is built on filled wetlands. I have seen pictures of boats docked where the Old Port Tavern is on lower Exchange Street. Can you imagine trying to get the permit for that project? But my personal favorite is the City of Boston. Imagine, if you will, going to a Department of Environmental Quality and asking for a permit to pull all the dirt off Beacon Hill and fill Back Bay. That activity created the City of Boston. Before then, Beacon Hill was almost like an island and Back Bay was, in fact, a bay. Could we build Logan Airport, or the Portland Jetport, or the interstate highway system? And, if not, what are the future implications for ourselves and our children in terms of public and private infrastructure?

Observation Four: *Global competition meets parts per quintillion.* Competition, particularly from countries that are not as punctilious about these things as we are, means that we do not have the luxury of wasting resources on unnecessary or purely cosmetic issues. I do not want anybody concluding that, "King says repeal all environmental laws." That is not what I am saying. What I am saying is that we have to look at the laws carefully and weigh the costs and real benefits to insure that we are allocating our scarce resources where they will do the most good. I am certainly not an expert on this, but my layman's view is that we have recently passed a law involving color, odor and foam in Maine's rivers, which is going to cost somewhere between \$100 and \$300 million dollars to meet. Many of Maine's rivers, the St. Croix is an example, have exactly the same levels of tannin and lignin in them by natural sources as the Kennebec and the Androscoggin have from the paper mills. You have to wonder if we are really doing something here that is much more than cosmetic. If you went to the Natural Resources Council of Maine or to the Audubon Society and said, "We are going to give you \$300 million dollars to spend on improving the Maine environment," would color, odor and foam have been one of the first things on the priority list? I would venture to say that it would not. Before unleashing the dogs of regulation, we must be sure that the risk is real and significant and that we are dealing with it in the most cost-effective way.

Data are now available on the cost per life saved of various federal regulations. For example, for the unvented space heater ban, which was passed by the government in 1980, the Office of Management and Budget estimates a cost of \$100,000 per life saved. Is a life worth \$100,000? I think everybody would say of course it is. Looking a little further, to OSHA's 1988 concrete and masonry construction standards, we find the cost is \$600,000 per life saved. \$600,000 does not sound too bad. Then there is a 1986 OSHA regulation involving arsenic and copper, which costs \$23 million dollars per life saved. That is getting a little steep. If it is your life, obviously it is a pittance. But \$23 million dollars is a lot of money per life saved for a society of finite resources. Maybe that \$23 million could have gone somewhere else and saved 100 lives instead of one. Moving on, we get to even more troublesome examples. The 1988 hazardous waste land-disposal ban: \$4 billion dollars per life saved. And finally at the bottom, drinking water standards for atrazine and alkaloid, the estimate is \$92 billion dollars per life saved. This is preposterous if you assume that these calculations have any scientific validity. They point out the enormous diversity in cost effectiveness of various regulations and the seriousness of this issue.

Columbus, Ohio, has estimated that it will cost that city between \$1.3 and \$1.6 billion dollars in the next ten years to comply with federal environmental regulations. That is an awful lot of money and that money is not coming from Washington; it is coming from within Columbus, Ohio. My favorite recent example is the federal Safe Drinking Water Act, which is going to cost Maine people between \$300 and \$500 million dollars to build filtration systems or to get waivers from the federal requirement. When I asked a fellow from EPA what the risk was, the only thing he could tell me was that there was once an occasion where 32 people in Dover-Foxcroft got the "beaver disease," (giardis) when the water in the local lake was drawn down severely during a drought. Nobody died, but we are spending \$300-\$500 million dollars (almost \$300 for every man, woman and child in the state) to deal with a problem that may well not be a problem. If ever there is something that is a quintessential local issue, it is safe drinking water. I do not know why we must have Congress telling us about problems with our drinking water or how to deal with them.

Observation Five: *Environmental protection and affluence are cousins, if not brother and sister.* By this, I mean that environmental consciousness, let alone environmental regulation, is a direct byproduct of affluence, just like symphony orchestras. If you are cold and hungry, you do not have the time or inclination to think about protecting the environment. People will always burn the last tree if they are cold. Just look at Scotland, the Brazil of the 15th century. Scotland was covered with trees; now it is denuded. Why? Because of the pressing needs of the local citizens. That is now happening in Brazil. There certainly are large corporate interests involved and I will get to them in a minute. But there are also individuals trying to keep warm and cook their food.

This thought leads to an important conclusion: Those interested in long-term environmental protection should also realize that they have a vital stake in long-term economic growth. Without economic growth, environmental protection will go right down the drain along with people's standards of living. I consider myself an environmentalist, but it disturbs me that there is a strain within the environmental movement that is anti-growth and anti-technology. I call them the Luddites of the '90s. Remember the Luddites were those in England who went around and broke machines because they did not like machines and because they did not understand how they worked. There is a resurgent strain of that. At a hearing on a solid waste landfill or on a power plant, you get an undercurrent of, "We do not know how it works. We do not like it." I believe this is a political agenda rather than an environmental agenda, and it is one of which we should be aware.

Observation Six: *Corporations are, in fact, heartless.* Environmental protection is not a necessary, likely, or even expected byproduct of capitalism. The mission of a business under capitalism is to make products and profits. This is not a pejorative comment. This is not bad, this just is. The managers are not supposed to be thinking charitable thoughts. Their imperative is to maximize return to the shareholders. That is the dynamic of the system. (Socialism is not any better, by the way, on this score. If you look at Eastern Europe, you will find that the socialist environmental record is not exactly benign. In fact, we are a lot better off than they are.) Because capitalism does not have within it an automatic environmental protection dynamic, there has to be some outside impetus for that protection. The outside impetus is the people, and their agent is the government.

This leaves two critical and somewhat opposing points. Economic growth is a necessary prerequisite to environmental protection. But environmental protection is not going to happen automatically. There has to be an outside force to insure that environmental concerns are imposed upon business and public facilities.

Observation Seven: *Pain works but pleasure is better.* Incentives, we now realize, might have been a more effective approach than regulation. I would argue that we may have taken the wrong turn about 25 years ago when we got into the mind-set of doing everything by rules. Thou shalt not dump. Thou shalt put your pipes in this way. Thou shalt do this and that. It might have been much better if we had said, if you dump, we are going to charge you \$100 per pound. Capitalism understands that \$100 per pound is a cost, and the inner dynamic of capitalism seeks to minimize costs. One way to minimize the cost is to not dump the stuff anymore or to dump less of it. This approach might have unleashed more creativity to get rid of pollution than all of the rules and

regulations in the world. Although I am not sure of this conclusion, I think it is worth more of a try than has been the case in the past.

Additionally, we should have clear and objective performance standards, because they work better than rules. Quit trying to tell people how to build their plants. Tell them what you want as an outcome. Say, "We do not want more than eight pounds per year of this stuff coming out of your pipe." But do not tell them how to do it; let them figure that out. Performance standards make more sense and are much easier to administer.

Observation Eight: *Somebody wanted the fuchsia car.* This means let the market determine need. One of the most troubling little worms in current environmental thinking is the idea that a person coming in for an environmental permit has to demonstrate the need for his product or her shopping center or his plant. Nonsense. The market decides whether we need it. The fuchsia car, by the way, is owned by someone in Brunswick. It is the ugliest car I have ever seen in my life. No planner on earth would allow that car to be made. No planner would ever say there is a place in our society, in our commerce, for that car. And yet, someone bought it. In Brunswick, again a local example, we once had two very busy hardware stores. Someone wanted to open a new hardware store. Black's and Maine Hardware were already there; they had all of the business. There was not a "need" for a third hardware store. Well, of course, the new hardware store came in, worked harder, and is very popular. One of the original hardware stores is out of business, and the other has moved. But if you had a board that asked, "Do we need a new hardware store in Brunswick?" I am sure the answer would have been "No." We would have lost a good hardware store and somebody would have lost an opportunity. That is the dynamic of the whole system. Do we need another shopping center in Portland? I do not know. The market should decide that, not some bureaucrat. Let us focus on the environmental impacts, but do not get side-tracked by the question of, "Do we need it?" This is another example of ideology campaigning under the banner of environmentalism.

Observation Nine: *Taking the Fifth - the Sierra Club meets Nino Scalia.* Antonin Scalia was a law professor of mine at Virginia Law School. He is just to the right of Louis XIV. He is now on the United States Supreme Court and seems to be emerging as the specialist on the Court on the theory of takings under the Fifth Amendment. I predict that there will be some bombshell cases out of the Supreme Court on the question of takings in the next couple of years. Regulations necessary to protect others from harm - we are back to Mill here- are perfectly okay and are non-compensable. If I tell International Paper they cannot put that stuff in the water anymore because it will poison people downstream and it costs them a million dollars to comply, that is IP's problem. That is a cost they must bear. On the other hand, a regulation which confers a benefit on the general public, but which does not protect them from harm, should probably involve some public cost. If the public wants to take my backyard and make it a state park, they should buy it from me, not zone it open space. This will be one of the hottest issues of the '90s. If the state takes property from someone because it wants to confer a benefit on the public - access to a beach, for example - then the Supreme Court is very likely to hold that the public will have to pay for it.

Observation Ten: *Modest suggestions for Maine.* From having worked on both sides of environmental issues in Maine, I honestly believe that the real problems that have caused so

much controversy recently are procedural rather than substantive. Here are some thoughts on how some of the procedural issues can be resolved without compromising the substance of our environmental protection system.

Everybody I have ever talked to about the Department of Environmental Protection (DEP) over the last fifteen years has said that the real problem with the DEP is not the laws, not the regulation; rather, it is the attitude. But, as I will point out in a minute, the attitude that is viewed as the problem may be perfectly appropriate given the structure of the agency.

About three years ago, I had a problem with an energy plant up in Greenville. Actually, we had two problems. One involved the highways, because we could not bring our fuel in. The roads were breaking up in the winter and the Department of Transportation (DOT) posted them, which effectively blocked our deliveries. We had to have that fuel to run our plant. The other problem had to do with the storage of our fuel and whether leachate from that pile of sawdust was going into the groundwater.

I went to the DEP one day and said, "We have this problem; what do we do? What do you want us to do with these test wells?" Silence. I said, "We have drilled four wells, do you want six?" The answer was, "We do not design your projects. You come back with a plan, we will review it, and get back to you in three weeks." I said, "We have a problem here. Do you want to check the water? How about eight wells?" I thought I was in a negotiating session. They said, "No, we do not design your project. You come back with a new plan and then maybe we will react." The next day I went to DOT with the road problem and the response was, "Hey, you have a problem. Let's take our jackets off, sit down around the table and figure something out. We have to protect the roads, you have to get your fuel in. Let's see if we can't work it out." We offered to bring the trucks in late at night when the roads were still frozen and in smaller loads. We gave a little, they gave a little. The plant ran and the roads did not get broken up.

The difference I am trying to point out is one of attitude. It had nothing to do with the DOT or DEP laws or regulations. It had everything to do with how the individuals administering those laws perceived their role and their agency's mission. My conclusion is that the attitude at the DEP is perfectly appropriate, but that it is the permitting structure that may be wrong.

The name of the agency is the Department of Environmental Protection. Their mission is to protect the environment. Therefore, my solution is to leave them there, but move the permitting somewhere else. Do not ask the prosecutor also to be the judge. Have a Department of Permitting that does nothing but consider the issuance of permits. Then DEP can come in and advocate for the environment just like the fisheries agencies advocate for the fisheries or the Department of Agriculture for farming interests. But after this input, a neutral body would weigh the particular project against the requirements of the applicable laws. We are now asking the people of DEP to wear two hats, and it does not make sense. Why does somebody go to work for the DEP? Because they want to protect the environment. It is not fair to ask someone who wants to protect the environment to give you a permit for something that they think deep down inside is bad for Maine. So, a Department of Permitting is a structural change we should consider.

Here is a second idea: Pre-permit certain sites. All over Maine we have industrial parks that towns have set up. Let the towns or some industrial committee go to the DEP or other appropriate permitting agency and get the permits in advance for certain broad categories of uses. You can draw the parameters: Traffic as long as there is no more than 50 trucks a day; water discharge as long as biological oxygen demand (BOD) is no more than 12 pounds an hour; air as long as it meets certain requirements. Pre-permit so we do not have the problem of somebody coming to Maine and saying, "I want to build a new plant in your state," and then hearing the answer, "Okay, but it will take two years." That is a real problem, because time is money. I know companies here in Maine that have sister plants in other states. When it comes time to expand, the expansion almost always goes to the other state, because they can do the permitting in 90 or 120 days there instead of 6 months or 2 years here. Why not pre-permit some sites? I think that is an interesting idea that would meet industry's desire for a more expeditious process without compromising the substance of the laws and regulations.

Suggestion three: Make the standards and the laws clear and objective. Do not rely on regulations and interpretation. I was at a conference with some legislators, and realized to my surprise that many did not realize that regulations are law. The legislature can spend six months debating all the fine points on some bill. They pass the bill. Then the agency passes a whole set of regulations. Those regulations have the same authority as the words of the bill; they have the same force of law, but they get virtually no legislative scrutiny. So minimize the regulations. If the legislature wants to pass a law about water pollution or air quality, do it. But do it in terms that people can understand. Do not rely on somebody to interpret it by a set of regulations.

Suggestion four: Allow public input but not public obstruction. If neighbors will bear a disproportionate share of the burden of a particular project, compensate them. This is something that we must get to, I think. But do not give them a veto over the project. That is essentially the system we have now: neighbors have what amounts to a veto over any significant project. The most finely tuned regulatory process in the world can be totally stopped by a good lawyer and a set of angry neighbors. I believe in the legal process; I believe in judges; I believe in juries. But I also know that through a combination of delay, political pressure and skillful advocacy, virtually any project can be stopped. Let the neighbors be involved, have their input, compensate them if they are injured, but do not let them veto the project. Otherwise, all of us suffer when we fail to construct a project that we all agree that we need, whether it is a new prison, a dump for the sludge from our incinerators, or a half-way house in a community. In Portland, there is even a serious fight about locating a branch library. This underlines my point.

Suggestion five: Legislate and regulate on the basis of good science, not anecdote or emotion. I have been around legislative bodies for 25 years and have developed a theory that much legislation is based on anecdote. Some congressman or legislator or one of their constituents got mad at something and the next thing you know, we have a law. I worked in Washington in the early '70s. In about 1972, a senator I knew came back after his vacation hell bent to break up the telephone company. He worked on it and I worked on it. There was a lot of movement at the time, including the anti-trust suit. Finally, late one night, I said, "Senator, why are you so worked up about this?" He said, "Because when I went away for vacation, it took them two weeks to get my damn phone in." That was the motivation and that is not unusual. This was a good senator,

and that is not an atypical story. I am convinced that a lot of legislation is based on that kind of personal experience and does not adequately reflect any reasonable sense of priorities.

Observation Eleven: *Keep your perspective and sense of humor.* Yes, we do have a number of serious problems in the environmental field that I do not mean to minimize. The ozone depletion may, in fact, be the most serious problem we as human beings have ever faced. But keep your perspective. Risk is inherent in life. Man is one of nature's creations, just as is a tree, and all activity, human or otherwise, entails some impact on the environment. Nature is not always a conservationist.

In this somewhat whimsical vein, I would like to leave you with a reading from a lost chapter of the Book of Genesis, little known among scholars. I translated it myself, and I call it the "Casco Bay Scrolls." It involves one of the earliest known environmental proceedings.

God cleared His throat nervously as He rose to address the Board of Environmental Protection. His engineers had been working on the plans for the tides project for almost two and a half years and the environmental impact statement (three volumes not counting appendices,) was complete. But He knew the Board's staff was hostile and that neighbors, in this case everyone in the world who owned coastal real estate, were violently opposed. They had organized a group called C.R.A.P., Coastal Residents Against Pollution. Audubon and the Conservation Law Foundation had intervened. Earth First!, in a well attended press conference, had announced that they were boycotting the process entirely and would sabotage the project even if it was permitted. God felt He had to go forward, however; something had to be done with the oceans twice a day because of the gravitational effect of the moon. Having the water rise and fall along the coast seemed to be a reasonable solution.

Most people now liked the moon, by the way, although there had been some opposition to that project at first. The opposition had been based on the grounds of visual pollution of the night sky; you could not see the stars as well as before. Friends of the Animals had also objected because of the unfair advantage the moon gave to predators, like foxes and owls, that were after rodents. Fortunately, Friends of the Predators had intervened and helped God out. Finally, God settled the moon case by promising no more than one full moon a month and that it would be phased in at that. It had been a close call. The vote was 5 to 4, and the Board was getting tougher all the time.

God also felt some financial pressure to go ahead, although He would never mention this to the Board. He had already spent 2 million dollars on the application, and He figured the only way of recouping any of that was to complete at least some part of the project. "We are aware that there might be some unavoidable environmental effects from this project," God said, opening His prepared statement. The several hundred members of C.R.A.P. in the audience, most of whom held signs which said things like "Tide's In, God's Out" and "No Bathtub Ring for Our World," laughed derisively. Some hissed. Their attorney rolled his eyes. But God continued, "Some such effect is inevitable if we are to maintain the moon in its present location. We tried to mitigate the problem by exaggerating the rise and fall in the extreme northern and southern latitudes and minimizing it around the equator, where the water is warmer and more hospitable."

"But what about the cost of building floating docks in places like Maine?" someone shouted from the back of the room. "And the smell every eight hours when all that mud and guck is exposed?" God winced. He was hoping that this point would not come up because it might generate air quality review. Another year of monitoring and more millions for consultants. "Yes," somebody else said, "What about erosion? Who is going to pay to shore up the foundation to my cottage?"

"Some erosion at the edge of any water body is inevitable," God pointed out, trying to stay calm. But His answer was lost in the chorus of other questions from the audience. Had He done a study of the effects on aquatic organisms? What about the wetlands? How would people figure out who owned the intertidal zone? Where was His noise study? Those waves coming in all night would make it impossible to sleep. What about possible salt water effects on adjacent wells or impacts on seabird nesting patterns?

Quietly, God folded His files and started to leave. Looking back at the Board He saw that they were arguing about whether the public hearing schedule should be extended to include a few days in the Southern Hemisphere and whether a solid waste review was necessary because of the driftwood problem. On His way out, God bent down and whispered something to His administrative assistant. "Noah," He said, "I think I have another idea....."

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