

Protect the Arctic, Warns Outgoing Fish and Wildlife Chief

By Brian Hansen

WASHINGTON, DC, January 8, 2001 (ENS) - As director of U.S. Fish and Wildlife Service, Jamie Rappaport Clark has for more than three years filled one of the key environmental policy slots in the outgoing Clinton administration. Clark and other top Clinton administration officials have been busy packing up their government offices, mindful of the transfer of political power that will take place in the nation's capital a week from Saturday.

Jamie Rappaport Clark served as director of the U.S. Fish and Wildlife Service for more than three years, the capstone - thus far - of a 20 year federal career (Photo courtesy USFWS)

Clark sat down with ENS today to talk about her experiences as director of the Fish and Wildlife Service, a bureau within the U.S. Department of the Interior.

Clark had myriad responsibilities as the Service's director, such as managing the nation's 93 million acre National Wildlife Refuge System, and enforcing a host of federal wildlife laws designed to protect endangered species and migratory birds.

The following is an edited transcript of our conversation with Clark.

of ENVIRONMENT NEWS SERVICE (ENS): Looking back on your tenure as director of the U.S. Fish and Wildlife Service, what were some of your proudest moments?

I'm really proud of what we've done as an agency. But I'm particularly proud of things like the organic legislation for the refuge system [which spells out how the system is to be managed and used], and seeing the growth - both budgetary and programmatically - of our national wildlife refuge system. And I continue to be proud of what we've accomplished in endangered species, trying to work with a law [the Endangered Species Act, or ESA] that no matter how hard we tried to get authorized, we couldn't, given the Congress. Given that we had to endure some real budget hits by a fairly divisive Congress, I think we've accomplished some terrific policy initiatives, and we tried to make [the ESA] work when the deck was clearly stacked against us.

Clark engages in some wildlife watching at Cape Pierce, Alaska, in 1998 (Photo by Eric Kessler, courtesy USFWS)

You must have regrets as well. What were some of your biggest disappointments?

Leaving is pretty high up there. It is a little bit regrettable that I

won't be here to see reauthorization of the ESA, and to celebrate the centennial of the refuge system. I would have liked to have seen some of that of stuff happen. Other than that, there aren't a whole lot of regrets, because we really had terrific support from this administration. I would have liked to have seen more happen in the aquatic conservation arena. But we just kind of ran out of time.

One of the most controversial acts that the Service has taken on your watch occurred just two months ago, when you instituted a moratorium on all new Endangered Species Act (ESA) listings for fiscal year 2001. Why was that necessary?

First of all, it's not a moratorium in any definition of the word, though that word has been used a lot. The Endangered Species program is surrounded by litigation, and I don't think that's a surprise to anybody. Without criticizing the nature of the litigation, there are very process oriented issues that we just did not comply with, such as statutory deadlines, and when you get sued, you lose, because there's nothing substantive about it - it's a deadline.

We have a specific amount of money for the listing program, [just as we] have a specific amount of money for refuge operations, for maintenance, hatchery production. Given the magnitude of the lawsuits, we were done. We were out of money.

The courts have literally taken over the endangered species listing program. But for a modest amount for emergency purposes left for each region to keep the lights on, the courts have decided how our money will be spent. When you're out of money, you're out of money, and it's illegal to spend money you don't have. We informed our folks that we couldn't settle any more lawsuits, and we couldn't take any more initiatives, because the courts had done it for us.

Some of the environmental groups have charged that you brought this crisis on yourself, by purposely not requesting enough money in the budget, because you didn't want to have to list politically controversial species. True?

Hogwash - it's not true. Last I saw, things like the Alabama sturgeon was pretty doggone controversial, and I didn't have any hesitation about adding that species to the list. In my whole time in Washington, which is almost eight years now ... I have yet to see the President's request for the endangered species budget supported by the Congress. It is a real eye-opener when you see a budget zeroed out, and the Congress had no problems zeroing out the listing budget a few years ago. Last year [the 2001 budget] was a classic example - we asked for a very modest increase, and we didn't get it in listing. So it's not that we're not asking, but on the other hand, in this Congress, it made little sense to ask for something we clearly knew we weren't going to get. And so we tended to divert it to places we knew [Congress] would support more openly.

Let's take a different tack for a moment and talk about delisting, using the example of the Peregrine falcon, which you delisted in August 1999. A number of

Fish and Wildlife Service biologists in eastern states have told ENS that they were opposed to delisting the Peregrine falcon, because it is not doing well in the east. Your decision to delist the Peregrine falcon, according to some, was based more by the desire to show that the ESA works, rather than on science and biology. How are such decisions made?

A Peregrine falcon takes flight (Photo courtesy the Perigrine Fund)

The delisting decisions in the administrative record that goes with any of those decisions is a reverse of the decision to list. To list a species, a species qualifies under any one of the five factors that are statutorily prescribed. To delist, we have to in essence address those same five factors.

The peregrine in the east has always been an interesting enigma. A lot of the eastern peregrines are hybridized versions of a number of the subspecies. The peregrine is doing well in the east, and we make decisions based on a national camera lens, not whether or not a species is doing particularly well in Delaware. So we look at the status of a species across its range, and ... it was ready, and it is doing very well now. When we have success we should declare it, and the peregrine was clearly there. I believe very strongly that it was a correct decision to make.

What about the bald eagle, which has arguably recovered to a level on par with the Peregrine falcon. The service had proposed to delist the bald eagle by July 2000, yet you did not do so. Why not?

That's actually an incredibly unique story. The bald eagle is recovered by most people's thinking, including the recovery team. But what we're working on now is the interconnection of three statutes, to make sure we don't let it drop through the cracks. We have the delisting under the Endangered Species Act, plus we have the protections of the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act. And squaring away the regulatory provisions and the certainty associated with implementing those statutes is really complex, and that's actually what's happening now. But I expect that the bald eagle will be delisted from the Endangered Species Act in the very near future, once they reconcile the three laws.

Another controversial case that arose during your tenure involved the Canada lynx, which is now listed under the ESA. The lynx played a large role in the battle over the controversial Vail ski area expansion in Colorado, which the FBI claims was the catalyst for the single most costly act of "eco-terrorism" in the nation's history.

According to Service documents obtained by ENS, Fish and Wildlife Service biologists on the ground in Colorado were opposed to giving the go-ahead to the expansion, saying that it could lead to the extirpation of the lynx in the Rocky Mountains. They wanted to declare the lynx population there to be a distinct population segment, which could have made it much more difficult for the expansion to go forward. Yet in documents obtained by ENS, it is made clear that you objected to that designation, which led to charges that the expansion was just being rammed through in Washington, and that it was political and has nothing to do with science and biology. Your reaction?

This whole notion of distinct population segments ... as deployed under the ESA is very much about policy, as much as it is about science. Congress allows for that in the definition of species, with the expectation that it would be used sparingly. We have worked really hard through policy pronouncements to declare what constitutes a distinct population segment. I don't know of anybody along the chain of command - maybe a few field biologists notwithstanding - that could have isolated out the Colorado lynx as a distinct population segment that would meet the definition of the policy as developed and published.

Flames engulf the Two Elk Lodge at the Vail ski area in 1998. A radical environmental group claimed responsibility for the arson, saying the act was carried out "on behalf of the lynx." (Photo by Mark Mobley)

That doesn't mean that we shouldn't do what it takes to protect the lynx, and as I recall, all of the terms and conditions that we imposed on the Forest Service were met, according to the Denver office of the Fish and Wildlife Service. Beyond that it really never bubbled back up here. Often times, the field biologists have their camera lenses focused on the issue that's affecting them, and they feel passionately about it, thank goodness. But when we're making policy decisions under the Endangered Species Act, we're guided by statute and policy. And no matter how hard you want to protect the lynx on the ski expansion area at Vail, you can't overcorrect the act to do it.

The lynx is now protected under the Endangered Species Act. This animal was part of a reintroduction effort carried out by the state of Colorado. (Photo courtesy Colorado Division of Wildlife)

Let's shift gears and talk about habitat conservation plans which deal with species recovery strategies on private land. Environmentalists have decried such plans, saying they give too much latitude to private landowners. How involved is the service in designing these plans, and do you think the criticisms that

have been leveled against them have merit?

The service has a tremendous amount of involvement in the development of these plans, because we're ultimately the judge on whether or not we issue the permit. And again, that's an area where we have every year asked for increased funding, so that we can provide better and more intense technical assistance to the permit applicants, and we've never seen those dollars that we've asked for. So our folks are working around the clock doing the best they can, given the sheer enormity of the pipeline for the development of these plans.

The criticisms that have been leveled at the Fish and Wildlife Service, in some regards, especially early on, have been justified. There was a concern about monitoring of these plans, and the connection of all these plans, and how much is enough when you have plans that are being developed in scattered areas but encompassing the same species. [But through] monitoring, establishing biological goals and objectives, adaptive management ... I know we've done a lot better job.

Development is happening, and we're not seeing land grow itself. We need to work to save the best of what's left and provide for fair passage through the regulatory provisions of the Endangered Species Act, and certainly for the regulated public and certainty for the future of listed species. That's a tough act when the march of development continues. Sitting back isn't going to stop development, so I really encouraged our folks to get in there and negotiate the best deal they can, knowing that they have the floor of the Endangered Species Act that they have got to comply with in the end. But it's tough.

If you had unlimited time, money and political support, what is the most important action you would take right now on behalf of the nation's fish and wildlife?

Protecting the Arctic National Wildlife Refuge forever. Shutting down the blasted debate. This is nuts - it's really hard to watch this debate, as far as I'm concerned. I don't know how anybody can truly believe that driving a stake through the crown jewel of the Arctic National Wildlife Refuge ... is going to solve this energy crisis of this country - that's just so completely illogical in my mind.

The Arctic National Wildlife Refuge supports a large population of caribou (Photo courtesy ANWR)

The fact is, even if you started drilling today, with all this wonderful technology, you wouldn't see the first drop of oil for 10 years. And what could be so important to dry up Yellowstone National Park? Or to alter the Grand Canyon - that's what the Arctic is like - it's so biologically rich and it's one of the wildest places left on earth.

When you pose those kinds of arguments to somebody like Alaska Senator Frank Murkowski, he comes back at you with the specter of Saddam Hussein, and the stranglehold that he's put our nation in over access to oil in the Middle East.

Alaska Senator Frank Murkowski is a leading proponent of opening the Arctic National Wildlife Refuge to oil and gas exploration (Photo courtesy the Senator's Office)

That's not true. I mean, we do have a problem, and I don't want to minimize that. But drilling in the Arctic is not going to solve it. The [United States Geological Survey] scientists don't believe there's that kind of oil there. This isn't Prudhoe Bay we're talking about - this is a fraction of the entire North Slope. Why go after the Arctic Refuge?

That segues nicely into my next question. The environmental community has expressed grave concerns over Gale Norton, President-elect Bush's nominee for Interior Secretary. Norton, as you know, worked to open the Arctic National Wildlife Refuge to oil and gas exploration when she previously worked in this building under James Watt, who was arguably the most anti-environmental Interior Secretary in the nation's history. Watt brought Norton up through the Mountain States Legal Foundation, a Colorado based organization that is frequently at odds with environmentalists over a number of issues. Do you share the concerns that have been raised about Norton? And what can environmentalists expect from a Bush White House and a Norton-run Interior Department?

I don't know yet, though I'm concerned. I have not met Gale Norton, but I have heard that she's extremely smart, listens well, and intends to be fair, so I want to give her the benefit of the doubt. But I am extremely concerned about all of the rhetoric of this incoming administration, and that they presume that the ticket to salvation of the energy crisis is the Arctic National Wildlife Refuge. If that is truly their interest, and they are not willing to look at the big picture and scientific facts, then it's not a good picture at all for the future. If they're that quick to dismiss something as spectacular as the Arctic, then what about the 90 plus million acres of the National Wildlife Refuge system beyond that?

People tell me that if you put politics aside you would really like [Norton]. But you can't really care about the environment and propose to drill the Arctic National Wildlife Refuge, or to deal with property rights issues as property rights vs. extinction. It's not an either-or, and that's how it's set up.

As you know, Congressional Republicans have threatened to roll back many of the environmental accomplishments of the Clinton administration, and the Bush team has indicated that they are going to carefully scrutinize this flurry of 11th-hour initiatives that we've seen.

The bantering and the rhetoric that we're hearing now isn't making any of us in the Fish and Wildlife Service feel comforted about the future. But to be fair, I think we need to give them a chance to perform. I tend to be an optimistic type, but I'll sleep with both eyes open.

How can the salmon of the Pacific Northwest be saved from extinction? And what do you think of the multi-agency recovery plan that's now on the table?

I think it's a good start. I think some of those salmon runs are in desperate, desperate shape, at this point. You wonder when you're down to those kinds of low levels of genetic variability, what you have left to pull back out.

We are spending an enormous amount of time and energy and science capability in trying to figure out how to solve that dilemma - it's bigger than salmon, it's bigger than hydropower. We have obligations to tribes, obligations to habitat, and it's not just salmon. That is a terrific ecosystem that a lot of species depend on, so I was really hopeful that the next administration would take it on as some sort of salmon summit thing. I don't know if this one will, but it will be debated in the courts for many years to come.

We've just been through this extraordinary contested presidential election. A lot of environmental groups now have animosity towards Ralph Nader and the Green Party, which they say took votes away from Al Gore, the "environmental" candidate. Those critics say that had those Green Party voters not gone and thrown away their votes on a spoiler like Nader, we wouldn't have gotten stuck with Bush, and everything would have been fine. What do you think?

I've done a lot of thinking about that, and I have to say that I was shocked by the outcome. I was actually shocked it was that close - that the Green Party could have counted one way or the other. Regardless of political affiliation, why give up on a good thing? I mean, it went far beyond the environment - it was an entire domestic agenda.

I think that Vice President Gore must have wracked himself with 'what ifs.' What if he had pulled New Hampshire? All he needed was one state. Or what if he had dealt with West Virginia differently? Or if he had carried his home state, or Arkansas? Or what if the polls had been managed differently in Florida? Look how close it was. It's a heck of a civics lesson, but I just don't think you can attribute this to any one thing. I don't know that I'd want to give Nader that much credit, quite frankly. But was it contributory? Yes, but it was like a cumulative effects issue. It was a whole lot of things. It was either a comedy of errors or a comedy of tragedies.

Do you think there is there any truth to Nader's contention that a Bush presidency will be like a much needed cold shower for the environmental community, and it will galvanize and jerk people into action?

Oh yeah. I think that's happening. Membership will be up, and it will be a wonderful time for the environmental groups. They'll see membership go up, money will come rolling in, they'll be galvanized.

The same thing happened when Watt was running the show out of this building.

Yeah, and the environmental groups kind of went into autopilot during this last administration, to some degree. Now the rallying cry has already started. I talked to some of my friends and colleagues in the environmental community, and they're getting money by the buckets. I think there will be some interesting fights.

What will you do come a week from Saturday, when your tenure as director of the Fish and Wildlife Service comes to an end?

I don't know. I will resign, although I could have jumped back into the Fish and Wildlife Service, but it's not really appropriate, given my positions on all of these issues. I'm also still a career civil service person, so I'm an interesting hybrid. The only place I would want to work in government service is with the Fish and Wildlife Service, and it really isn't appropriate, given the incoming administration. So I'm resigning effective the 20th of January and then I'll find ways to help my colleagues and the mission of this agency from the outside.

A 20 year federal career is a challenge to walk away from, but it's been a terrific career with the Fish and Wildlife Service.

Director Clark, thanks for taking the time to talk to us.

You're welcome.