

# THE GOVERNMENT PULSE

## ENVIRONMENT

### Too Many Cooks Can Spoil the Wetlands Policy

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**A**rguing for strong wetlands protections at a recent White House meeting, Environmental Protection Agency chief William K. Reilly quoted a 1988 pledge by President Bush to protect the ecologically fragile areas—"no matter how small."

From across the table came a retort from Office of Management and Budget Director Richard G. Darman. Bush, he noted, "didn't say that. He read what was given to him in a speech."

Darman's demurrer, relayed by observers at the meeting, may have been wrapped in jest. But it gave a flavor of the manner in which the administration decided two weeks ago to relax the criteria for wetlands protection, a move that could open millions of acres to development, from Alaskan tundra to shrubby swamps in the Florida Everglades—as well as large tracts of land that rarely get wet.

The policy, which Bush endorsed Aug. 9, narrows the definition of wetlands to drop from protection a third of the 100 million acres currently covered in the contiguous 48 states, including 500,000 acres of the Florida Everglades, according to one official estimate.

The struggle over who should control environmental policy—the experts throughout government or the political and economic advisers to the president—is as old as this administration. But many federal wetlands experts complain that even for a White House whose top officials routinely get involved in the smallest domestic policy spats, the resolution of this issue reached new heights of political intervention.

What, from their standpoint, was supposed to be a scientific review of the swamps, marshes and bogs considered worthy of safeguarding ended up essentially reasoning thousands of acres for development. And what they planned to be a collaborative effort by environmental specialists in four federal agencies was taken over by officials in the White House who have little direct knowledge of the issue. Indeed, they had to be given a special wetlands glossary at the decisive meeting.

A White House aide defends the process by saying that previous wetlands protection had gone too far in blocking development and denying landowners their rights to develop their land. He says its implications for private property and the environment were too important to be left to bureaucrats.

"Ultimately politicians make the decisions in Washington," the official says. "That's how the system works."

"Wetlands" is a catchall term applied to a wide variety of ecosystems ranging from prairie potholes that flood seasonally and become water-

### When science mixes with politics, the result gets muddy



BY MICHAEL DREW—THE WASHINGTON POST

fowl breeding grounds to tidal salt marshes bordering estuaries such as the Chesapeake Bay. Wetlands are among the most diverse of wildlife habitats, but in the White House meeting, one characteristic was measured—how wet they were.

Vice President Quayle, wading into the complex debate over the extent to which soil must be soaked to qualify as a wetland, reportedly suggested a simple criterion: "When it's wet, it's wet."

"This was worse than the Reagan years in the amount of second-guessing and political involvement," one seasoned environmental official says. "Once the agencies achieve compromise, you assume you'll have the support of the principals. When the whole thing is reopened, the system goes awry."

Wetlands protection is the most recent flashpoint in an administration sharply divided over environmental policy. But unlike past disputes over broad policy questions, the wetlands issue centered on narrow, technical judgments such as the plant species that are characteristic of wetland habitats and the number of days soil must remain saturated at various depths to constitute a wetland that deserves protection against development.

At issue was a manual drafted by scientists in 1989 to set forth the factors that distinguish a wetland. The 100-page listing of criteria is used by the Army Corps of Engineers, which controls permits to fill in wetlands and decides whether projects threaten "unacceptable" environmental harm. Its decisions are subject to EPA veto.

The manual did little to curb de-

velopment—95 percent of permit applications were approved last year. But industry complained nonetheless of unreasonable controls, which, for example, restricted development on cropland that had been tilled for generations.

Large sections of the Eastern Shore of Maryland and the state of Louisiana were technically off-limits to development under a strict reading of the manual.

**T**he controversy, fueled by members of Congress who picked up the cudgels for angry landowners, sent the panel of government scientists who wrote the document back to work.

Reilly assumed leadership of the interagency effort that included the EPA, the corps and the departments of Interior and Agriculture. He sought to establish what he called more defensible criteria and was willing to let go of marginal areas to concentrate on the most ecologically valuable wetlands.

It was not a popular cause. When Reilly forged a consensus to broaden soil saturation criteria, one scientist quit the panel in disgust and another asked to "disassociate" himself from its work.

The real fight began when Reilly took the consensus to the White House. Technically, the Office of Management and Budget is required to sign off on all regulations. But the wetlands review was so high on industry's list of concerns that the President's Council on Competitiveness entered the fray. The council, set up to ease regulatory burdens on industry, is chaired by Quayle and run by his staff.

Although the council is supposed to

serve as an appeals board for agencies unhappy with OMB decisions, its staff participated at every stage of the wetlands debate.

On July 1, the interagency group reached agreement with OMB on manual revisions. But the next day, officials say, they were informed by a vice presidential staff member that the terms were unacceptable.

A White House official says that the agreement had been tentative and that objections by other interested parties, including the Council of Economic Advisers and the departments of Energy and Housing and Urban Development, kept the accord from becoming final.

A week later, Reilly attempted to deal directly with Quayle. Anxious to draft a proposal for public comment and unveil it at a Senate hearing on wetlands the next day, officials say, Reilly called Quayle the night before and offered a compromise.

The 1989 manual had conferred protections on wetlands saturated for at least seven consecutive days as deep as 18 inches below the surface. The interagency group raised the threshold, saying it wasn't a wetland unless it was saturated 14 straight days at the surface. Some administration officials wanted the criterion to be 30 days.

Reilly got Quayle's approval to propose 15 straight days of saturation and to ask for public comment on a range of 10 to 20 days, officials say. But Allan B. Hubbard, the competitiveness council's executive director, called back and told Reilly that Quayle had misspoken.

Another call by Reilly to Quayle just after midnight July 10 resulted in another compromise: a request for comment on the 10-20 day range and

dropping the 15-day proposal. The EPA staff worked through that night to draft a proposal for the hearing the next morning.

But on his way to the Senate, Reilly received a call on his car phone from Hubbard, who directed him not to release the document, officials say.

That impasse set the stage for the competitiveness council meeting July 29. In attendance were the six council members or their representatives—Darman, the secretaries of Commerce and Treasury, the attorney general, the White House chief of staff and the chairman of the Council of Economic Advisers.

**A**lso attending were officials from the interagency group. But although representatives of those agencies had earlier supported Reilly's compromise, they changed their minds in the more political atmosphere and none of them spoke in favor of Reilly's appeal for a 15-day saturation rule.

Interior Secretary Manuel Lujan Jr. told colleagues privately that he had come under pressure from the White House to break away. "I'm a politician, not a scientist," he said at the meeting, according to observers.

A knowledgeable official says that Quayle's staff had contacted council participants earlier in the search for a consensus, but that no one was pressured.

Lujan's spokesman said the secretary could not be reached for comment.

Darman, who is known as a critic of environmental policy, told the council that the dispute came down to deciding whether land that is dry for 344 or 350 days a year should be classified as wetlands.

"Boston was built on a wetland," Darman reportedly said.

Quayle then interjected what he called a "supertest" for wetlands. If it is covered by water 80 percent of the time, it could be considered a wetland, he suggested.

"How about if we say when it's wet, it's wet?" Quayle suggested.

Darman then reportedly shot back: "Okay, Dan, and when it's dry, it's dry."

One observer says that Quayle was "thinking out loud," searching for a common-sense approach to defining wetlands that would be easily understood and universally applicable.

Wetlands experts say Quayle's formula was more appropriate for classifying ponds or streams.

Although Reilly was outnumbered, the meeting ended without resolution.

Later in the day, Quayle offered him another compromise: 15 days of standing water and 21 days of saturation at the surface.

Hoping to bring public pressure to bear once the proposal gets out, Reilly accepted the formula. The new criteria are expected to be published in the Federal Register soon, starting a 60-day review period.

Reilly declined to comment on the deliberations.