

UC Agriculture & Natural Resources

Proceedings of the Vertebrate Pest Conference

Title

Vertebrate pest control, where from here?

Permalink

<https://escholarship.org/uc/item/1d49x9wh>

Journal

Proceedings of the Vertebrate Pest Conference, 8(8)

ISSN

0507-6773

Author

Momboisse, Raymond M.

Publication Date

1978

VERTEBRATE PEST CONTROL, WHERE FROM HERE?

RAYMOND M. MOMBOISSE, Pacific Legal Foundation, 455 Capitol Mall, Sacramento, California 95814

ABSTRACT: The legal and regulatory problems confronting the vertebrate pest control profession have mushroomed in recent years. The causes, the groups responsible and a suggested action plan for meeting the problem is outlined.

It goes without saying that in recent years those involved in vertebrate pest control have been unnecessarily confronted with almost insurmountable problems. No small cause of those problems has been government over-regulation and needless control.

By statute and by regulation, one tool after another has been taken from the trained professional, limiting his ability to perform his duties. But, more importantly, he has been stripped of his discretionary powers which are essential to the performance of his duties. It is only natural, therefore, that he asks, "What does the future hold?" No one can possibly answer that question for it is impossible to read into the future. This does not mean that he must stagger ahead blindly. It is possible to project what will probably occur, for history is like a river. By looking at the brooks of the past and the streams of today, one can estimate what the river of tomorrow will be like. So, let us take a close look at the past and the present and try to grasp a glimmer of the future.

In the first 200 years of our history, our forefathers spanned the continent and built the greatest nation that the earth has ever known. They did so because of their courage and resourcefulness. They developed because they had freedom to dare and to do. They succeeded because the private enterprise system allowed them to invest, develop, and build a better world for themselves and for us. The result today is the highest standard of living the world has ever known. Tens of millions of our people own their own homes and automobiles. They enjoy the convenience of electricity, central heating, refrigerators. Their lives are longer due to the wonder drugs and insecticides which have controlled carriers of disease. They have one of the most varied and nutritional selections of food ever known.

In addition, industry has adjusted to our changing social structure. It has become involved in a wide range of social and community programs aimed at eliminating many of its past shortcomings. Truly, with all the weaknesses and shortcomings of our society, we have done more for people in more ways than any other organized society in all the recorded history of the world.

But, for some reason, these achievements have not been enough. Since the early sixties, an attitude has swept the country that individuals are incapable of directing their own lives, that private enterprise is not performing its responsibility and that the affairs of business and the lives of the individual should be directed, indeed managed, by the government. We see attempts to break up agriculture into small uneconomic units, action which will destroy the greatest food producing machines the world has ever known. We see unreasonable restrictions being placed upon the construction of housing, hydroelectric and nuclear facilities, dams for flood control, and factories. We are stopping the growth that is essential to sustain development of this nation and the improvement of the standard of living of our people.

We see the imposition of pollution control measures which are unrealistic requiring a degree of purity of air and water that is physically impossible of realizing. We see government growing in size and in its control of all phases of society. We see it imposing restraints on development and the individual which in no way can be justified. We see chemicals being banned even though they have been used for decades without any injury to man and in spite of the fact that they are essential to the preservation of his health, indeed his life.

Yes, anyone looking at the United States today would be extremely confused. They might well ask if we are deliberately destroying ourselves as a nation and a people. Why is this happening? There is no simple answer. To try to understand, let us first look at the broad social changes that have directed our course.

The very success of the private enterprise system has helped to generate the social climate of unrest and dissatisfaction. With progress has come a sense of security. Nature is no longer perceived as the demanding tyrant who unchecked would keep us on the razor's edge of survival. She is now perceived as a generous, gentle, bountiful provider that would nurture and maintain us in splendor if only given half a chance. It thus is difficult for those so deceived to understand why we need to restrain her. They simply have not learned or have forgotten the lessons of history and are thus doomed to relive them.

More and more there has been a movement away from the country and small towns into our cities. This results not only in ignorance of the pest problems of the farmer, but more in an overwhelming sense of frustration on the part of the city dweller for in the urban wasteland he soon begins to feel less and less like an individual and more like an IBM card or an unnoticed clog in a gigantic machine. There is obviously a desire to escape from this depersonalizing setting and again taste the rural atmosphere and to communicate with nature. But he is led to believe this rustic world is rapidly being desecrated and destroyed.

The increase in affluency has only aggravated the problem. As men experience more and more leisure time and the financial ability to satisfy this craving, it has become difficult to do so due to the number of people who have the same desire. The limited facilities available to them are simply overcrowded to the point that they resemble the crowded ghetto.

There has also developed a recognition of the problems of pollution and the destruction resulting from it. There is a growing fear that we will destroy our "fragile Mother Earth." This fear has been enhanced by the media, politicians, and environmental activists. This is particularly true in the case of chemicals. They are constantly portrayed as one of the greatest pollutants, and the paramount threat to the health and well-being of man. This refrain was effectively voiced in "Silent Spring" and has steadily been developed into an overwhelming public relations campaign by those who are opposed to the use of any and all chemicals.

For those in the vertebrate pest control, there is another segment of the entertainment field which has had a unique impact upon the consciousness of man. This one is so subtle it is overlooked. These are the cartoons and animal studies typified by Walt Disney Productions. How human he has made the coyote and the timberwolf. How sweet and endearing they are. How so like us. Unfortunately, as delightful and entertaining as these shows are, they have made your work more difficult. They have created a completely distorted picture of predators. They do not show the lambs and calves that have been ripped to pieces by wolves or the damage done by those cute little groundhogs and squirrels. Is it any wonder then that people are appalled when you talk of controlling predators? After all, they know that you are wrong, for that lovable little coyote was just trying to take care of its precious little babies.

These are some of the forces which have produced in our society a concern, indeed a phobia, with regard to the use of chemicals and the control of pests and predators. Now, let us look more closely at the influential groups which have sprung into being and are so active in dictating the laws that put you in a straight jacket. They differ radically and that dissimilarity must be understood and appreciated for it will dictate your method of dealing with each.

The first group consists of a very substantial percentage of the population who have succumbed to the prolonged campaign designed to convince them that chemicals are injurious to their health and the environment. To put it very simply, these people are confused, misinformed, and frightened. They dread what may occur to them and their loved ones. Because their fears are based upon false information and wild speculation, they must be told the truth and their aid enlisted to realize the reforms needed.

Of the organized groups, the oldest and most important is the true conservationist and environmentalist segment of our population. It is, and has been for years, legitimately concerned with the universe and motivated by a desire to minimize the impact of any action by man which would have catastrophic impact. It is rational and reasonable, and thus willing to strive for meaningful solutions.

A far smaller group are those opposed to all technological advancement, particularly in the chemical field. Their motivation is hard to describe. Quite often because they are unable to fathom the complexity of technology their ignorance frightens them and causes them to turn against it. These are suffering from chemophobia which is, as are all phobias, an irrational fear. It is all but impossible to reason with such a mentality.

Another very small group is vocal and active because it is personally profitable. They have frightened the public into supporting public interest law firms and their anti-chemical campaigns. Indeed, if chemicals were banned, they would be extremely unhappy. It would end their lucrative way of life and force them to actually work for living.

Last, but far from least, is the anti-establishment group which uses environmental issues as their vehicles for social change. They have no sincere belief or dedications in protecting the environment. The environment and their concern for the safety of pests and predators is merely a means to achieving their social and political ends. They hold the belief that they, and they alone, have the right and the ability to move their fellow creatures around like so many blocks of wood. They believe that society should adjust to their beliefs and that government should be run so as to realize the ends which they consider important.

What are the tactics which have proven so productive for the activist?

The most important is conditioning of the general public. First, they created a glowing picture of themselves. Their motives are the purest. They are guided by the highest of principles. Their goal is to protect the environment and the well-being of mankind. They are the underdog, the little David pitted against the Goliath, big business and big government. In contrast, those who oppose them are pictured as thoughtless, ruthless, and grasping, totally lacking in consideration for their fellow man and the world in which we live. The success of this image campaign is painfully evident.

Naturally, they have a tremendous advantage in a public relations effort. They are unconcerned with facts. They are the masters of half truths. Their staple is emotional appeal. They project headlines grabbing stories for they predict impending disaster and death. Their style is sensationalism--items that are always newsworthy and impossible to refute.

After the public has been properly conditioned, the rest is simple. A particular problem is built to the status of a crisis. To prevent disaster a law is demanded. Congress acts to placate their panicked constituents. Thus, in the last decade we have seen a tidalwave of very fuzzy laws enacted to solve unsolvable problems. Congress has decreed we shall have perfectly clean air and water by noon tomorrow. These laws contain no guidelines or standards for those who are to enforce the law. Rather, new agencies are created and are given a blank check to do whatever they see fit to achieve the unattainable goal established by the law. In turn, these superagencies generate shelves of regulations so detailed, complex, and contradictory that it is impossible to understand them let alone comply with them.

These superagencies did not come into existence nor do they operate in order to preserve our free enterprise system. On the contrary, their staffs are overloaded with those who harbor unfriendly feelings towards all business, not just big businesses. Their aim is to substitute, government-made decisions for those of the market place so as to improve "the quality of life." Their constituency is "the people." They show almost total unconcern for the industries and people they regulate. In one word, they are crusaders, and the cause they champion is of overriding importance. This is why they are so consistently indifferent to the burdensome costs of their intervention. The loss of jobs, the closing of plants, the bankruptcy of business means nothing to them.

Thus, they often evidence a total lack of concern over the effects of their action on a company or an entire industry. They give scant attention to the impact of their action on employment and the production of essential goods and services. They ignore the benefits of growth and the effect of their actions on our overall living standards.

Many of these new bureaucrats are also anti-science, for whenever the facts frustrate the achievement of their holy goal, they ignore the evidence. The results of scientific experiments which run contrary to their desires are simply altered to conform to their preconceived beliefs. They are immune to criticism or control because they are not answerable to the people. They are not elected and are so entrenched in government that it is impossible to remove them. They are answerable only to those special interests who are responsible for the creation of their agency or jobs.

In the future, there is every reason to believe that these agencies will grow in size, power, stupidity, and inefficiency. There is also every reason to believe the character of the bureaucrat will not change.

This is where we stand today. What of the future?

The special superagencies are in existence. They have been given fantastic power by law and have usurped additional powers never vested by Congress. They have created a huge tangled web of regulations. They will not voluntarily go away or reduce their size or power. They intend to mold the future to their will.

The crusaders are still alive. They have managed to place many of their members and supporters in key government positions and wield tremendous influence in government and the mass media.

The public interest law firms have matured and are digging in for a long, painstaking crusade. The Environmental Defense Fund, which was responsible for compelling a ban of the pesticides DDT, Aldrin, and Dieldrin, is redoubling its efforts in the pesticides area and has begun monitoring proceedings before the Food and Drug Administration with the intent of compelling that agency to ban substances which are proven safe as well as economically and socially beneficial. The Natural Resources Defense Council, which hitherto has not been active in the pesticides and chemical area, announced recently in its newsletter that it has budgeted \$700,000 over the next three years to wage a crusade against "cancer-causing chemicals."

These and similar groups have one thing in common: they are dedicated to "protecting the public health"--regardless of scientific fact and regardless of the enormous social and economic harm they may cause in the process. Additionally, they are dedicated to ensuring that federal agencies act to ban substances on the basis of suspicion and emotionalism rather than science.

Fear of chemicals is still with us and cannot be easily dissipated. Indeed, it has been enhanced by a systematic public relations campaign. CBS has produced two television "documentaries:" (1) The American Way of Cancer, and (2) The Politics of Cancer. NBC turned out "What is this Thing Called Food?" All of these shows have increased the fear of the public of chemicals. Disaster such as the kepone have occurred and will occur, and thereby add credence to the claims of alarmists.

Now what can you do?

Because of the wholesale criticism, there has developed a defeatist and defensive attitude in the business community. Public self-criticism and apology has been the popular outlet for some executives. This is to be expected when one receives one crashing blow after the other. So, the first step that we must take is to purge ourselves of pessimism and defeatism. These attitudes are corrosive. We must have the courage to meet and to overcome the challenges of today and tomorrow. We must have confidence in our ability. We must encourage individual initiative. We must allow optimism to replace gloom. We must recognize that our opportunities are boundless. We have enormous capacity, if we are only willing to utilize it. This attitude must be passed on to the youth of this country. We must show them and convince them that hard work pays off, not only for them individually, but for society as a whole.

We must put behind us the concept that "small is beautiful" and "less is best." These are the philosophies of the coward of a man who has given up, who has lost faith in himself and his fellow man, who admits defeat without even trying. The man who embraces such thoughts is an insult to our forefathers who had the courage to make this nation great and passed on to us both their achievements and challenges. We must strive to do the impossible for we can do it. We must be willing to continue to take risks and to make this a better world. We must acknowledge that it is not evil, but fit and proper, to strive for an equitable return on one's investment. Profit is essential for it is the fuel that strokes the American engine. Without profit there are no jobs, there is no progress.

The next step is to clean up your own house. Recognize that you are in an era of increased public awareness and that a higher standard of performance is being expected, indeed demanded. To achieve this, every profession must police its members. Those who refuse to live up to the standard of their profession must be removed from the profession if they refuse to reform.

In the performance of the tasks of vertebrate pest control, it is extremely important that great care be taken in the use of chemicals which by their very nature are extremely toxic, for one mistake can have a traumatic, adverse effect on the entire industry.

You must also be willing to listen to your critics. Those who have a legitimate complaint should be heeded and remedial action taken. Those critics who have no basis for their charges should be convinced as to the error of their ways and enlightened as to the true facts. If, in spite of this they will try to injure you, their impact on the public must be effectively contradicted and they themselves revealed for what they are--ignorant and misinformed.

You must realize that as vertebrate pest control professionals, you are a minority group. Thus, it is essential that you have allies in your struggle to enlighten the public and bring reason into government. You seek them on an "issue" basis, not on general philosophy. Thus, your ally on one particular struggle may be opposed to you in another. Because of this, it is extremely important in any conflict to avoid personal attacks which may permanently alienate an individual or group.

On a broader scale, it is essential that general and active public support be obtained for the major changes that are needed. They can be achieved before there is a public demand for them.

You must make the voice of reason be heard. It has been far too quiet in the past. You must communicate. You must do a better job than has been done in the past. We must make the general public aware of the facts and realities of life. Tell them the importance of what you are doing.

In all parts of the world today, pest control of some kind is essential because crops, livestock, and people exist and grow in a potentially hostile environment. Without such control, our lives would be far different and far shorter in duration.

Ten thousand years ago life was short, nasty, and brutish. As one of nature's creations, we got equal treatment with all of the rest and spent our limited existence in a continuing bitter struggle for enough food and shelter to survive. Afflictions of one sort or another came early, caused enormous suffering and were seldom curable. We were an integral part of that so-called balance of nature. We do not want to return to that day. This is the story you must tell.

You must make the public aware of the absolute essentiality of pest control to their health and well-being. In the absence of such controls, our food supply would be far less. The danger of infection and injury to man would multiply dramatically.

You must show the public that there is no Santa Claus, that if great strides are to be made in the area of environmental enhancement, it will require the expenditure of resources. You must show the public the fallacy of the misleading figures prepared by governmental agencies, which grossly underestimate the actual cost. Even more reprehensible is the attempt to sell this to the public by stating that the consumer would pay only 19 percent of the total cost. The bulk is to be borne by private industry and a small portion by government. Common sense tells us that the cost will be borne by the American people totally, and trying to minimize the impact on individuals is a gross deception.

Educate the public--especially the middle class wage earners, as well as the less affluent who pay the increased taxes and bear the burden of increased costs and are faced with the shortages resulting from the government's unnecessary interferences with free enterprise and sound economies.

Your public information campaign should be keyed to the audience to which it is delivered. It should be phrased in terms they understand. It should generate their self-interest and concern. You must emphasize the importance of the control of pests to them. Stress the danger to their health or the impact on consumer prices which will result if predators go unchecked. These are things they can understand for they affect them personally. These are things to which they will respond favorably.

As far as the media, you must demand honest reporting and not distorted sensationalism. This is particularly true in the case of television documentaries. In the past few years there have been a number of them which grossly distorted the danger of chemicals. Fairness can be achieved at the grass-roots media level by personal contacts with newspaper, radio, and television people. At the national network level, you should look to your Association to speak for you. Give them as much support as possible by making your feelings known to network program managers and executives.

In the area of law, it is apparent that major changes are needed to prevent the ever-increasing encroachment of government on your industry and your private life. Those laws and regulations which produce little or no beneficial results at maximum social and economic cost must be scrapped.

The most effective solution is to elect qualified men who know your problems and who are aware of the shortcomings of present law. One vehicle for achieving this is the creation of political action committees through which funds can be donated to political campaigns. You should also establish communications with those holding political office. Get to know your state assemblymen and senators, your Congressmen and your United States Senator. Do this before you have a problem and need to contact them and ask for assistance. In this way, when you do call for help, they will be more responsive to your needs. Also, let them know when they have done something which is good and commendable.

We must recognize that a change will not come about instantaneously, but will require prolonged effort, and that effort must be coordinated and cohesive. We must keep raising our voice until it is heard by the press, by courts, by public agencies, by Congress, and most of all by the suffering and badly misled public.

As far as the superagencies, we must divorce ourselves from the naive concept that politicians will work to dismantle their authority. No bureaucrat is that stupid. We must make the public aware that government is overregulating and that certain government agencies are overreaching. Make the public aware of the everyday impact upon them personally of overregulation. Let them hear of the man who has lost his job, the manufacturer whose plant has been closed, the farmer who has lost his crop, the consumer who cannot purchase what he wants, the patient who cannot obtain the drugs he needs to stay alive. When the people demand, reform will come.

Short of a major overhaul of the bureaucratic machinery, what can you do to protect yourself? You must have impact within the agency. Most of the thousands of decisions the agency makes, both formal and informal, are based entirely on the advice of its staff. You must, therefore, make every effort to educate that staff so that they will be understanding and therefore supportive.

To be effective, you must have familiarity with the agency, its methods, and its personnel. Obviously it is far better to convince an agency that there is no need for a hearing than to successfully defend one's self but only at the cost of a very long and protracted hearing.

It is in this area that public associations can be of great value. They can maintain daily contact with agency employees and officials. This gives them an insight into the personalities who staff the agency. This gives them advance warnings of agency actions. Thus, you are better able to protect your interests.

There are other methods of keeping apprised of what the agency is doing. It consists of studying agency records. This you have the right to do. Recognizing the power of the agencies over our lives and the danger of arbitrary agency exercise of those powers, Congress has made their records open to public scrutiny. The concept is that the more the people know about the agency's law and policy, the fairer the system. The Freedom of Information Act (5 U.S.C. § 552) was enacted to help achieve this end. Use it.

With regard to rule making, it is important that you actively participate in rule making when it impacts you. Participation affords you an opportunity to protect your interests by apprising the agency of information which may have been overlooked. You can point out the abstrusive effects of the proposed rules. You can suggest alternatives. You can force the agency to replace vagueness with clarity. You can have an impact on the final result.

Generally, your procedure in all rule making should be to have input in molding that action at the earliest possible time, even before the announcement of the proposed rules if at all possible. Once the proposed rules are printed in the Federal Register, a searching inquiry should be made under the Freedom of Information Act for all the agencies' records pertaining to those rules, both favorable and unfavorable. You should enlist the aid of experts to evaluate the rules, their basis, their rationality, their social-economic impact. Your arguments against them should design to convince the agency to make the changes suggested by you.

In informal rule making you have the right to file written comments. It is important that you exercise the right. Appropriate comments can lead an agency to make major changes. It must also file written response to your comments. Further, unless adequate objections are made during the comment period, you will not be allowed to raise them.

Your comments should reveal inadequate shortcomings and errors in the proposed rules. They should disclose the incorrect data relied upon by the agency and offer correct information. They should establish the impact of the rules not only on industry, but on society as a whole.

In the case of formal rule making and adjudication, your approach should be the same as in any litigation. Be represented by a competent counsel. He knows the intricacies of procedural rules and how to best present your case. He will use every tool available to discover the agency evidence so that it can be analyzed and refuted. He will work with you in developing the evidence to support your position. He will present the evidence and cross-examine hostile witnesses and experts. He can marshal the law and the facts and argue them in the most effective manner.

What comes after agency action?

If you are unsuccessful before the agency, your recourse is to the courts.

In the past, industry has evidenced a reluctance to sue, for the cost was high and there was always the very real threat of agency retribution. That attitude has gradually changed. The engrained hostility of certain agencies is now recognized, as is the bias and anti-business attitude of many agency officials. Only by forcing them to face judicial review can they be convinced that they cannot act arbitrarily and capriciously.

More importantly, changes in the attitude of the courts indicate that they will be far more responsive to your request.

Courts have begun to abandon their attitude of unquestioning deference to agencies. They realize the enormous power to affect individual lives which is concentrated in agencies. They are aware of the fundamental social interests regulated by administrative action. They recognize the relative isolation of agencies from the political processes. They know that there is a lack of representation of all affected interests in agency decision making. They accept the need for judicial supervision and control of agencies.

Some further thoughts on dealing with bureaucrats is in order.

Demand fair play from them. Demand that they not release damaging information when they have nothing to support their speculation. In those instances where an agency brings disciplinary action that is unjustified, fight it. Fight it in the agency and fight it in the courts.

When they promulgate regulations that are ridiculous, ridicule them. A prime example of this is the OSHA regulation that there should be an outhouse within five minutes walking distance of all agricultural workers, including cowboys. This regulation would have completely redecorated the plains of the West and converted them into portable suburbs.

In those instances where a government individual or agency has violated its authority and caused injury, they should be held liable. The incompetent employee should face, at the minimum, disciplinary action. The time may not be too far distant when he will face civil liability.

Don't be afraid to go to court to protect your interests.

In dealing with responsible public interest groups, discover their grievances and seriously attempt to arrive at a solution. Success in this area can give you invaluable allies.

With regard to irresponsible public interest groups, the cardinal rule is not to finance them. When their demands are irrational and they refuse to negotiate, fight them every inch of the way and in so doing reveal to the public what they are really and the damage they will cause if successful. And, finally, sue them for the injuries sustained by their misdeeds. Let them learn that they do not own the courts.

The pseudo-scientist should be exposed for what he is, a charlatan, and every attempt made to academically discipline him. Certainly any grants which he seeks from any source should be opposed.

Thus, you have some modest proposals for action in the future. Your success is of the utmost importance to mankind, for history teaches us that man survives only by constant vigil upon the constant forces of nature that are inimicable to him and man can only endure in his present state and develop a greater world if he can effectively control the pests that are ever ready to destroy him.