

REFLECTIONS ON WATER, S01 EP10, H2-OWOW! - A REFLECTIVE CONVERSATION WITH JOHN GOODIN, FORMER DIRECTOR OF EPA'S OFFICE OF WETLANDS, OCEANS, AND WATERSHEDS

RECORDED DECEMBER 2022

HOSTS: DAVE ROSS AND ANNA WILDEMAN

GUEST: JOHN GOODIN

Anna Wildeman:

Welcome to *Reflections on Water*. I'm Anna Wildeman.

Dave Ross:

And I'm Dave Ross. We are joined in this episode by John Goodin, the former director of the Office of Wetlands, Oceans, and Watersheds within the Office of Water at EPA. Anna, John recently retired from what I believe is one of the most influential and interesting environmental policy positions in federal government, and it was great to hear his perspectives on that role and his amazing federal career.

Anna Wildeman:

Absolutely. John provides us with some really good insight into the breadth and depth of the work that the OWOW office performs on a daily basis. It's pretty impressive stuff. And then just for fun, we got to talk about some other things that we love, like waters of the United States and nutrients and traveling and retirement. It's really a great conversation. I know we had a lot of fun, and I think folks are going to enjoy it. So, let's roll the tape.

I'd like to welcome to the podcast John Goodin, a recently retired office director in one of the four major offices in the Office of Water at EPA, the Office of Wetlands, Oceans, and Watersheds. Yes, I did have to look at my notes to make sure I got the letters all in the right place, because the acronym is OWOW. Much easier. John, welcome to *Reflections on Water*.

John Goodin:

Well, thank you Anna, and thank you Dave. It's nice to be here, and I appreciate the opportunity here to participate in your series.

Dave Ross:

John, it's great to see you again. When we saw the retirement announcement, I just couldn't believe it. You had been at the agency for a long time and you're part of the institution, and so congratulations on retirement and congratulations on an amazing career.

John Goodin:

Thank you. Yeah, it's hard for me to imagine. More than 32 years has gone by so quickly.

REFLECTIONS ON WATER, S01 EP10, H2-OWOW! - A REFLECTIVE CONVERSATION WITH JOHN GOODIN, FORMER DIRECTOR OF EPA'S OFFICE OF WETLANDS, OCEANS, AND WATERSHEDS

Anna Wildeman:

Well, let's also not forget the pangs of jealousy, Dave. The pangs of jealousy from his retirement announcement. Let's not forget that, okay? That was real. That happened.

Dave Ross:

Absolutely. Total self-interest on this. You're right. I was wildly jealous.

So, John, one of our first meetings when Anna and I came into the agency and we were getting our arms around the Office of Water and this huge portfolio of really important work, biased here, but I think both the coolest and the most important office in all of the agency. And then within the Office of Water, the OWOW. You had this phrase that you described it when we first started talking, it's sort of the kitchen drawer of the Office of Water. And can you give us a little bit of background about what the office is and what you meant by kitchen drawer?

John Goodin:

Sure. First off, I'd say that just by being located in the kitchen, there are a couple of certainly fundamental and framing programs that OWOW had under its purview, and multiple rulemakings and others that kind of fit some of these big areas. But a real exciting aspect for me, and I think for a lot of folks that work in OWOW, was the wide range of issues we had. Not just rulemakings, but also a variety of grant programs, a variety of collaborative efforts, not only with other federal agencies, but with the states and other interest groups as well. So, for me, that metaphor, without torturing it too much, really brings to mind the amazing variety of tools that are available and the amazing variety of programs that are housed under that office.

Dave Ross:

People in the outside world, particularly inside the beltway, think, "OWOW? Oh, it's the WOTUS rule-making team. That's pretty much all you guys do." But you had ocean dumping, marine estuary work, you had all these massive grant funding programs. At one point, I think we had eight or nine rule-makings going in your office, in addition to all those grants. So that's the depth and the breadth that I think the people in the outside world just don't understand.

John Goodin:

One thing that has always struck me about the office is where our programs are located in the arc of the Clean Water Act. And as folks may be aware, one of our four offices, it focuses on water quality standards. The targets that we're after with respect to clean water. Another office focuses on the point source permitting and the backend. But all of those middle areas where we're monitoring the health of our waters, where we're assessing what those monitoring results mean, where we're developing the plans for restoration or for protection of those waters, and even where we are accomplishing some of the actions that go beyond point source, such as our non-point source program and others, all those are housed in the Office of Wetlands, Oceans, and Watersheds. And as a result, we have a really interesting, and in some cases, bizarre and unique set of responsibilities

Dave Ross:

To the bizarre, and I've got to just share this with folks, I think the most bizarre is when I got the first email notification, I believe from region 10.

John Goodin:

Yes.

Dave Ross:

Letting me know about the seal carcass disposal. I was like, "Wait, what? Why? What's going on here?"

John Goodin:

Yes, yes. A lot of our coastal and marine efforts involve some of the more unique work that we do in OWOW. And yes, there are some general permit notification requirements associated with marine mammal carcass disposal. And along those same lines, my folks work on the technical criteria associated with permits for the National Science Foundation to dump their annual ice piers off of Antarctica. And, of course, we have representatives on committees ranging from soil science to wetland plants to international wetlands work, and even our representation on international ocean dumping work. So, it is quite a broad spectrum in addition to some of our fundamental programs related to non-point source, to our permitting programs and others covered by the regs.

Anna Wildeman:

So, John, you were at EPA for, what, like 75 years? Is that right? You were at the signing of the Clean Water Act?

John Goodin:

Yeah. Yeah. Not-

Anna Wildeman:

You were laying the cubicle orientation out for the first Office of Water, is that right?

John Goodin:

Yeah. Not quite so far back. I missed one decade by a few months. I joined in August of 1990. At that time, there were a different set of issues, but also some of the same questions that we tackle today. Again, another fascinating observation that I think I share with many is the dynamism of the Clean Water Act. It's not a one and done. There's just really been an amazing evolution of how that act comes to apply even in programs that have been around for 50 years.

Anna Wildeman:

Yeah, absolutely. And I think the nature of the resource is such that that's going to be like that forever. Even though we may never see another action from Congress in the clean water space, the legislation that's 50 years old continues to evolve with the needs of the resource in our communities. I think that's a good observation.

Given the length of time that you spent doing this important work, I want to focus, if you can. Give me something specific that you worked on that you are most proud of over the course of your career. Now it's going to be hard, because again, it was a very lengthy career at EPA, but if you can focus on something really specific that you'll take with you for the rest of your life as a proud moment?

John Goodin:

That's a great question, and of course a very difficult one to get down to just one item. And, so, I'm going to cheat a little bit and at least mention a few others briefly. I will focus on one. But, certainly, I think some are more meaningful because they have some personal connection. I remember one of the very earliest projects that I had the chance to work on was an Alaskan wetlands initiative that we did back in 1993. Very meaningful, just because it was one of the first big efforts that I worked on, but a real eye-opener to understand the special needs of stakeholders in the 49th state and their relationship to the wetland resource, which as I'm sure you guys are aware of, is quite extensive in that state.

And then some others where we were really able to bring science to bear. Some forestry guidance that we worked on is still in use today, 20 years later. That helps us focus on the challenges associated with pine plantation conversions, particularly in the Southeast. And I think some really good work there.

But maybe the item that I'll mention is one that really was a great growing experience for me as a manager, and that was one of the first major areas where I was working with states in addition to federal colleagues. And that was in 2013, we completed a 10-year vision for the 303-D impaired waters and TMDL program, Total Maximum Daily Load program. And I really valued that experience, a couple year effort working with other champions in the states. We had just wrapped up more or less 25 different lawsuits across the states, and there was really a canvas waiting to be painted and a new chance to prioritize the work we do in identifying impaired waters and restoring those. And great credit to our state organizations and state folks that were engaged in that effort. And that has come to define really how we focus on state-involved priorities for water restoration, as opposed to litigation driven areas.

Dave Ross:

Yeah, that litigation driven stuff, man, every now and then, because of the litigation side, it was, "Ow, ow," instead of OWOW. But what was the hardest issue? And maybe I'm focusing in on while you were the director of OWOW, because it was such a huge portfolio, but what was the hardest issue you had to grapple with?

John Goodin:

I think I can answer that maybe in two different ways. One from the substance and maybe one from the managerial side. From the substance, it's hard to pick a more complex issue, I think, than the definition of waters of the United States and all of the tentacles that extend into the Clean Water Act programs. And there's a fair challenge also associated with the amplification of interest groups, and to be honest, a sometimes disheartening representation of what is going on from various players in that. Legitimately some very challenging and complicated questions associated with that issue. And I think that's worn out in its being revisited so many times.

I think a second challenge from a managerial standpoint, and I think this was just prior to your arrival, Dave, we were implementing reorganization in our group that resulted in the consolidation of three divisions into two divisions there. And I think from a managerial standpoint, making sure that we were

continuing to emphasize all of the important areas that we work in without losing motivation, without losing some of the forward momentum that we had on a lot of those affected issues. So that, for me as a manager, was one of the greater challenges in the last few years.

Anna Wildeman:

I would imagine, having been there for only a short time, that some of the more difficult moments for you as a manager in the Office of Water would be the Groundhog Day that you lived through OWOW. That you and the team lived for the last few administrations. I mean, you brought up the definition of waters of the United States. That's a great example. And now we're reliving that through with the Clean Water Act 401 certification rulemakings. And that's my small window into this. And it's been our experience throughout our career, not just at EPA and not just working for the state, but that people who work in water law and policy tend to be more emotionally connected to their work. And I would say this more so than people who might work in the air program, for example. I just think that we have a real connection to water. We drink it, we bathe our kids in it, we play in it and on it. It's tangible. Every day we're touching and feeling it. So, can you talk a little bit about how that set of circumstances and that context played a role in how you managed those teams through those major rulemakings? And in particular, if you want to get into it a little bit, the waters of the US rulemaking.

John Goodin:

I think a lot of it does have to do with the fundamental mission of OWOW, the Office of Water and the agency, as well as the people that are attracted to that mission. And you did allude to that, Anna, and I think it's true. One of the exciting things for me at OWOW is that it really is a place that attracts folks that are interested in environmental science, that are interested in ecology, that are interested in water restoration. And as a result, I think folks are really passionate and motivated to do right by that mission. And the challenges associated with that I think are ones that are right-sized, if you will, by understanding really what our fundamental charge is as public servants, and particularly as federal public servants. And I like to boil it down into a few key areas.

One is getting the facts. It's really important to collect the raw material of the decisions that we're making as best possible; the science, the factual situation as best we can. Secondly, I think is understanding the relevant laws and regulations that apply, and really making sure, to quote a recent AA, that we peel this back to its original content and then build back onto that the regulations, the court cases, other things that have influenced how we interpret those laws and regs. Thirdly, I think is the importance on a career staff to lay out options and to talk about the implications of those options. And then ultimately to help participate in the policy formation that's associated with it, but then to also recognize that in our system of government, ultimately the executive branch and the head of the executive branch are the ones that provide that leadership, that direction, that decision-making there.

So, I think my chief motivating feature was to remind folks of our duty as civil servants. "Let's make sure we get the facts out. Let's understand and present the laws and the regs. Let's lay out options and implications. And then let's get in there and participate in the policy formation, recognizing that those ultimate decisions are those of the elected head of the executive branch and the political appointees."

Dave Ross:

We saw that. Perhaps folks outside the EPA building don't fully appreciate it, but we saw that connection to the issue, the options, the passion of the team advocating and developing options, but yet

also providing the options. Even options that they did not necessarily agree with. And then to have the large group setting where we're walking through those options. And I'm spending a lot of time with you and Mindy Eisenberg individually in the office, just to talk about next steps. It's a very, very difficult process, but you do have that human connection. Just what I saw when we went to federal government shutdown, or when COVID shut down and the politicals were still in the building and we were having to walk through the office, OWOW had statistically dramatically more plants than anyone else in the building. So, I spent a lot of my time watering plants for a couple of days.

Anna Wildeman:

Were they sea grasses in terrariums?

Dave Ross:

They were everything. You're talking desert, you're talking somewhere jungle-like. It was amazing. But there's the spiritual connection to the environment. That's why you work in the Office of Water. But that passion comes out. So, John, we're going to put you on the spot a little bit. How do you see WOTUS playing out if possible? Is there a solution out there? Where do you see it go next?

John Goodin:

That's a great question and I'll preface it, number one, by saying that I've actually taken my retirement pretty seriously for the opening months here. So, my apologies for maybe not wading in quite as deeply as you or your listeners would like. I'm actually a little bit removed from it in the last few months.

And then secondly, obviously sharing this is my own view, but I think it's a risky enterprise to predict where the Supreme Court is going to come down on this and how much actual specific direction will be a part of any opinion there. And certainly, over the years I've been surprised not just on this issue, but on other issues that we've handed, where district court or circuit court judges would take an opinion that would be difficult to predict ahead of time. And so, I think it's going to be interesting to see where the court comes down.

That being said, I think EPA and the Army Corps of Engineers definitely owe it to keep at the task and to make sure that we have a rule that is implementable and can accomplish the fundamental objectives of the act, regardless of the ever-shifting sands of the judiciary or the Hill, if they choose to get engaged.

Given the structure of the Clean Water Act, my personal view is we have a lot of opportunity under the act to exempt discharges, to permit discharges, to consider whether ultimately the trade-offs between issuing a 402 permit or a 404 permit or having a certain response with oil spills, et cetera, et cetera. We don't get in the door to even answer those questions unless the waters are jurisdictional. And so I think whether you're a proponent of the fundamental objectives of the Clean Water Act and what we're after, or if you have the precautionary principle as an important piece of your philosophy, or some appreciation of the tragedy of the commons, et cetera, I think that my personal view is we need to take a generous view of jurisdiction given the outlines of the Clean Water Act, because we don't even get to answer the questions about the appropriateness of a discharge unless we're in that first door.

Dave Ross:

The WOTUS conversation is probably the most significant rule-making difficult issue that the agency has dealt with, will deal with. Good luck to the team that's running it because Anna used Groundhog Day, right? And I fear that it's there for a while.

Outside of WOTUS, especially in the OWOW space, what's the next biggest, most important challenge water quality wise? Where should people be worrying, thinking, applying brain cells to solve the next phase of major problems?

John Goodin:

Yeah, I think that's really a good question, and really apropos, given the 50th anniversary of the Clean Water Act. I think my primary focus would be on how we address non-point sources. We've definitely seen the progress that's come in the first 50 years in our addressing of point sources, and there've been some really good efforts made in the non-point source arena as well. But I think, last I recollect, some 75 to 80% of impairments that are assessed across the US right now have at least one non-point source component associated with those. And obviously the landscape there is a lot more complex as well, given the different sorts of provisions of the Clean Water Act to address that. But I think what we're seeing is that those challenges with things like nutrients and other non-point source pollutants can be really impactful if we don't get a handle on those.

And as you mentioned at the outset, Dave, some of the areas in which water professionals are exposed in their careers are these very immediate ones in terms of everything from recreation to sources of drinking water and things of that nature. And I think non-point source is really a very challenging area that I think we'll just have to bring a lot of imagination and all hands on deck for that one.

Dave Ross:

Well, speaking of imagination, two side issues on nutrients. Anna and I can't have a conversation about nutrients, especially on the policy side, without talking about trading and environmental markets. There's a lot of desire to try to make nutrient trading environmental markets work from a policy statement standpoint, but then when you actually get into it, we're not seeing it take hold across the country. What's your view? Is there a future for trading? Is there a future for environmental markets to solve non-point issues?

John Goodin:

I'll feel a little freer in my personal capacity to respond on that one. I have many other folks, including outside of OWOW, that are certainly the experts on this issue. But I think my sense on that one is that we're missing some sort of effective cap or targeting mechanism that would really spur the markets to take off the way they potentially have in such things as compensatory mitigation for wetland losses. And I think it is certainly possible. We're starting to see some examples out there. And I think a fascinating area to explore are some of the partnerships, urban, rural, wastewater management, ag, that are emerging in some places. But I don't think we've quite yet found that magic formula that in my mind has some sort of cap to help drive that market. And again, I certainly defer to those more expert than me on that one.

Anna Wildeman:

I think we're approaching the end of our time together and I want to make sure that I get this question in. You mentioned two important things in an answer a few minutes ago that I want to make sure we get to. First, you said that you're taking retirement very seriously, and second, you said something about shifting sands. Okay. Now anyone who knows you, John knows that you have a passion for travel and perhaps trying out different palette-enticing options in the food and beverage area. And I just wanted to make sure that we get a chance to talk about this, because it's a great part of your story, of your personality. It comes out in everything that you do. So, I want to hear you talk about your passion for travel, and in particular, how has that passion influenced your work in the Office of Water? Or how did your work in the Office of Water influence your passion for travel?

John Goodin:

Yeah. I appreciate that. I do really enjoy that. And I think the opportunity for everyone to have some opportunity to get outside of their home region, whether that's more locally or within the US or overseas somewhere, I certainly consider myself very fortunate to have had this opportunity, including a really life-altering one about a dozen years ago where my wife and I took a leave of absence and took our kids out of school for a year and did some really extensive traveling around the world. And I think Anna, as you so euphemistically put it, in the food and beverage arena I often feel like many of the keys to culture come via food and via wine and beer and coffee and other beverages of the world. And so, it's a great way to have the chance to explore the differences, the variety of human experience around the world.

I think that certainly was a refreshing episode for me after my first two decades in federal service, and getting the chance to expose my children to the fact that Northern Virginia was not the center of the universe and there was a lot more out there was certainly very rewarding as a parent. We did get a chance to see a lot of things that made me think about water, traveling the world, and certainly a lot of things that may have been influential both directions, as you put it. I'll just mention maybe a couple here. One that I thought was incredibly bizarre was getting off of the coast of France, a small island there that some folks may be familiar with that's exposed at low tide. You can actually walk out there, and then during some high tides it's covered over. But the cathedral there is famous, at least based on some guides, for the origin of cubicles. They actually had monks working in their own little squares there. And it was really hard, when I ran across that, to not think of my job in the federal government.

Anna Wildeman:

And what you took from that experience, John, you brought it right back into the Office of Water?

John Goodin:

Yes.

Anna Wildeman:

Oriented those cubicles in an even more wholesome and holistic way.

John Goodin:

I think folks are very pleased that we didn't adopt the sizes of those monk cubicles for purposes of federal employment-

Dave Ross:

Or isolating certain teams where they're only accessible at certain times of the day because of the tidal influence.

John Goodin:

Yes, exactly. Exactly. But I think it was fascinating to see how the world interacts with water in different ways, and it's hard not to think of things like fishable, swimmable, flood protection, drinking water sources and things like that as you're looking at some of these.

I remember some of my most favorite meals. There's a seafood dish on the island of Aitutaki, which is in the Cook Islands in the South Pacific. And it's typically made with tuna, but they can use other ocean fish. They cube it, it's served cold. They just cook it, so to speak, with lime and coconut juice and vegetables and things like that. Just a fabulous, fabulous meal there. And that's a fishable connection.

I think of swimmable, my daughter taking a fateful leap into Ha Long Bay and unfortunately submerging her head rather than keeping it above water and then coming down with a nasty viral and bacterial infection that had us parked in a Vietnam hotel for a few days until she could get properly treated and recovered. A very impressionable thing there.

And then even the delivery of water. One of my favorite structures in the world is a fabulous Roman aqueduct, Pont du Gard near Nimes in southern France. And it's essentially just one of the most amazing marvels of engineering that hopefully is regarded by our modern-day water delivery folks as worthy of recognition. 2000 years old, still stands today. Delivered water from the mountains 50 kilometers away. Just an insane level of drop, all gravity, but sometimes as little as a few millimeters per kilometer. Just really remarkable. It's those sorts of things that definitely stick out.

Anna Wildeman:

So, John, what I would expect in retirement is that you will be developing a series of itineraries where the traveler can learn about all concepts of water use, policy quality, et cetera, et cetera, through your international travel itinerary. So, I can't wait for that. I'll be signing up for the program. Maybe June 2023, we'll do our first international itinerary for water nerds. I love it.

John Goodin:

Yeah, yeah. Well, that's great. I'm not sure what the market share is of something like that, but absolutely, that would be fun. I have been known to scratch out a few itineraries for folks that have requested it, given some of my travel experiences in the past, and I think there are certainly an unlimited supply of water-based connections to travel around the world. For sure.

Dave Ross:

Your passion for travel, for water, for food, for drink. What I appreciated about your management style in the Office of Water is, we're in it, we're going through these really hard issues, the WOTUS team. It doesn't matter what the issue was. And then you take a break and you go out and you go have food,

drink. You leave it on the field and you come together over food, over that experience, that human side of working together. And that was a management technique that you applied very naturally. Whether or not it was strategically, it doesn't matter. It was very natural and I always appreciated that.

The other thing I think the listeners need to know is your great skill in mixology and being responsible for any of the major events. And for the record, everyone, we did get federal permits that authorized certain drinks to be had at certain times of the year. But the great holiday parties, the great retirement parties. My favorite name that you came up with, the drink you invented for one of the events was Unexcused Absence. And you literally did wipe out the Office of Water staff for the next couple of days if I seem to remember correctly.

John Goodin:

Well, certainly that's one outlet for me that's in service of my larger mission, and I appreciate that you recognize that, Dave, too, which is building the human connection. And certainly, when I have the opportunity to have a beer or a coffee or a meal with a colleague or a friend, it's absolutely in service of building that human connection. I just think we do so much better work when we know each other well, and that's really the motivating feature there. I certainly have enjoyed crafting a few of those beverages in service of that larger mission, and it's absolutely been a fun way to connect not only with folks that we work with every day, but maybe some that we only see once a week or once a month or whatever. And so that certainly was a part of building that human connection across OWOW and the Office of Water.

Dave Ross:

I think we're going to wrap up here, John. And speaking of the human connection and your colleagues in the Office of Water and across the agency, now that you're looking back from a comfortable retirement position and eyeing up fun travel in the future, do you have some thoughts, some words for your former colleagues that you want to share?

John Goodin:

Well, thanks, Dave. Certainly, my highlight of my farewell remarks to EPA was to make sure that I spoke in great depth and feeling about my colleagues there. And that team, especially in OWOW, just a fantastic group of folks. And it really is, it sounds cliché, but it's the people that really make it so meaningful and the people that are attracted to the mission that we have that make it so enjoyable. Certainly, I wish them nothing but the best in the challenges to come. I know they're going to be great. It's just exciting and sometimes a little scary to see how qualified and intelligent and dedicated the latest crop of arrivals are in the agency. I know when I went to school, I think there were three science majors possible: physics, chemistry, and biology. And now you're hard pressed to go to a school that doesn't offer some far more in-depth possibilities in the environmental field; sustainability, environmental economics, whatever the case may be. And it's just wonderful and gives me a lot of hope that we are in a position to tackle the challenges ahead of us, given the great cadre of folks that are coming onboard to the agency these days.

Anna Wildeman:

Well, John, I think that's a great way to wrap it up here with a hopeful toast to the future, if you will. I want to thank you so much for hanging out with us today. This has just been a lot of fun. Great catching up. Always a pleasure. And I'll look forward to that next beer with you sometime in town.

John Goodin:

Thanks, Anna. That sounds great.

Copyright, Troutman Pepper Hamilton Sanders LLP. These recorded materials are designed for educational purposes only. This podcast is not legal advice and does not create an attorney-client relationship. The views and opinions expressed in this podcast are solely those of the individual participants. Troutman Pepper does not make any representations or warranties, express or implied, regarding the contents of this podcast. Information on previous case results does not guarantee a similar future result. Users of this podcast may save and use the podcast only for personal or other non-commercial, educational purposes. No other use, including, without limitation, reproduction, retransmission or editing of this podcast may be made without the prior written permission of Troutman Pepper. If you have any questions, please contact us at troutman.com.