

The North American Lake Management Society

Axing Truth, Threatening Lawsuits

BY STUART H. HURLBERT

[AUTHOR'S NOTE: all sections but the final one of this essay were originally privately published (Hurlbert 2008) in a *Supplement to Lake and Reservoir Management* 23(5). Following that publication, NALMS threatened to take legal action against me and my university if I did not cease distributing that *Supplement*. The original essay has thus been expanded with a final section recounting that attack by the legal eagles and some of its sequelae.]

In a time of universal deceit, telling the truth becomes a revolutionary act.

—George Orwell

My dear, descended from the apes! Let us hope it is not true, but if it is, let us pray it will not become generally known.

—wife of the bishop of Worcester
on hearing Darwin's theory of evolution

Introduction

Prefaces to collections of papers are not a literary genre of high repute or one that normally stimulates much effort on the part of preface authors. Prefaces are necessary for establishing the origin and theme of a collection and offering acknowledgments but otherwise are often bland and uninformative.

This an account of an attempt to depart from that tradition and offer a more useful preface, one that provided commentary on the symposium that generated the papers, a big picture framework for the subject matter of the papers, and blunt facts and opinions challenging to the establishment. It is a sad tale of censorship and political correctness gone amok.

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The preface at issue, in the final form approved by myself and the LRM editor Dr. James LaBounty, is the preceding document in this Supplement. [The preface was intended for the collection of scientific papers that has been published as a special issue of *Lake and Reservoir Management* (LRM) under the collection title, *Salton Sea Centennial Symposium, Part 1* (Hurlbert 2007). That journal is published by the North American Lake Management Society (NALMS). The preface is titled *A Lake and a Symposium in Multiple Contexts: A Prefatory Essay on Salton Sea Science and Politics*. It is now republished in this issue of *The Social Contract* (Hurlbert 2011)]

Synopsis of preface

The preface consists of brief descriptions of the following: the Salton Sea itself and symposium planning; recent history of scientific work at the Sea; four talks by keynote speakers and a panel discussion; current restoration plans; the threat of high, immigration-driven population growth rates to the Sea's water supply and other environmental values; attempts to raise the population issue at this and other Salton Sea symposia; passage of a bill by the U.S. Senate that would have doubled the rate of U.S. population growth; votes of particular senators on that bill; parallels with a major environmental and political issue in the Pacific Northwest, the impact of population growth on the already badly damaged salmon stocks of the region.

Censorship by NALMS directorate

The chronology of events was roughly as follows, but I was not privy to timing of events and discussions going on within the NALMS directorate (Executive Director and Executive Committee).

Editor LaBounty found the preface strongly worded but saw nothing inaccurate in it. He persuaded me to tone it down in a few places and add a disclaimer. Those done and after seeing a number of laudatory reviews of the preface, he was preparing to send it off for production of galleys. He indicated his belief that I was operat-

ing within my prerogatives as guest editor of the volume and entitled to express my opinions, even pungently.

The NALMS directorate then grabbed control of the process, disrespecting the work and judgment of Editor LaBounty. It *demand*ed excision of one-third of the text from the last two sections of the Preface. The NALMS Executive Director, speaking for the entire Executive Committee, called the facts and opinions presented there “unprofessional” and “inflammatory.” It was made clear that this was not a matter of style or language. It was primarily the facts and opinions themselves that had to be censored.

The shotgun charges of “unprofessional” and “inflammatory” were the weak and sole justification for all the excisions demanded. Those are unusual criteria for defining the ‘acceptable’ in science or even literature, many might say. The directorate could not identify a single line of the preface as inaccurate, illogical, unclear, irrelevant, libelous or unfair.

Here are some of the prohibitions reflected in the directorate’s demands:

- You may not say that doubling the U.S. population growth rate would lead to environmental devastation.
- You may not mention the names of any U.S. presidential candidates who voted to double the U.S. population growth rate.
- You may not reference specific instances at Salton Sea symposia where charges of “racism” were publicly leveled against persons who raised issues of population growth.
- You may not imply the existence of race-card players, venal cornucopians and sanctimonious utopians, let alone that they are powerful forces inhibiting slowing of population growth and of environmental degradation.
- You may not refer to “ideological or governmental censorship.”
- You may not quote from a poster presented at this symposium that asked, “Who will speak truth to power? ... Scientists and engineers comfortably funded for their studies of environmental degradation and ways to achieve short-term fixes?”
- You may not mention that most U.S. Senators in the Pacific Northwest have also voted to double the U.S. population growth rate, which would have severe negative impacts on the salmon populations and rivers there.

Opinions of external reviewers

After it became apparent that the directorate was probably going to claim a right to impose extreme censorship and overrule Editor LaBounty, I asked many respected senior scientists and environmentalists from the U.S. and Canada to give me their frank opinion on the preface. I did not indicate that it was under attack, but I asked each one to take an especially close look at the last two sections of the preface and tell me whether they saw anything that was “inaccurate or inappropriate” in them.

Of the 14 who responded: one said he was too tired to review a long document!; one waxed a bit cynical and said that I was wasting my time trying to instill courage in scientists and that I should write an op-ed for a newspaper; two were noncommittal; and 10 were highly enthusiastic. Several made useful minor editorial or technical suggestions which were incorporated into the preface. *Not one reviewer said there was anything inaccurate or inappropriate in the preface.*

All these review were forwarded to Editor LaBounty, accompanied in each case by 2-3 lines giving a capsule summary of the credentials of the individual reviewer some of whom were already known to LaBounty.

Below are summary statements by each of the 13 reviewers who replied to my request:

- “What you say is exactly what should be said and what too many people are too cowardly to say... I don’t think anything is inappropriate. Everything is well said.”
- “You and your colleagues have a lot of ‘co-jones’ taking on the political-academic-environmental complex. As an ‘armchair minute-man’ I admire that.”
- “Very well done...quite eloquent.”
- “An excellent job, easy to read, informative, sufficiently blunt, but not obliquely confrontational.”
- “So, are you inaccurate or off the mark in your prefatory essay? No indeed. Scientists must be warned, to not just avoid dodging the real issue that needs to be out in the open.”
- “Do not shy away from what you have written... We no longer have the luxury of narrowing our public comments. Everyone, as citizens of the world, especially including scientists and engineers, have a responsibility to raise the alarm and speak out about the ways they believe humanity is going wrong and threatening our future.”

- “It’s hard-hitting,... but what you’ve stated is certainly not inaccurate or inappropriate.”
- “Your preface is excellent!”
- “It is an excellent preface, and not one that most scientists would have the guts to write.”
- “I read your preface, and think it is great.... I think too few scientists are willing to discuss the ‘population growth elephant’ in the room, as adroitly pointed out by Bob in Salmon 2100.”
- “You are wrestling with a challenging, perhaps impossible, set of issues.”
- “I have read the preface and found it very interesting.”
- “Knock it way back here, but keep the essence and write an opinion piece for the Union-Trib or LA Times (or Sac Bee), where thousands of people will read it. Few will be scientists, which is what you want, because scientists will only wring their hands and worry about offending granting agencies, as you say.”

The resignations

Not willing to butcher the preface in the heavy and arbitrary manner demanded by the NALMS directorate, I withdrew it, submitted a three-paragraph ‘pabulum’ preface in its stead, resigned as guest editor of the LRM Salton Sea issue and asked that my name be omitted from its title page. I continued to oversee processing of final proofs.

Editor LaBounty also submitted his resignation to the NALMS directorate, to take effect in October [2008].

Final vindictive acts

Once quality control for the LRM Salton Sea special issue was wrested from Editor LaBounty’s and my hands by the NALMS politicians, quality of the issue went downhill fast. First inkling of vindictiveness afoot came when I was denied permission to check proofs of front materials for the issue.

Not until the issue had been printed and distributed was the full scope of the damage inflicted by the NALMS directorate apparent.

Most mean-spirited was how the directorate treated our dedication page. The authors of articles in the special issue had earlier decided to dedicate the issue to Jim LaBounty, whose enthusiastic interest in publishing this special issue rescued it from less reliable options. So we let Jim’s wife, Carole, in on the secret and her family took a great photo for us to use for this purpose. The text

was to read simply: *The authors dedicate this volume to James F. LaBounty, generous and wise editor, a brandy-bearing St. Bernard, and newest patron of Salton Sea science.* This idea was approved by the LRM publisher, Philip Forsberg.

Behind our backs, the NALMS directorate renegeed on this agreement. They plagiarized our idea and our photo, censored *our* thanks to Jim, and replaced our words with their own, arrogating dedication rights to themselves, they who had contributed nothing to the special issue.

And there were other post-publication shockers. The NALMS directorate had also refused:

- a USGS request to insert in the Preface an acknowledgment of the Salton Sea Authority’s financial assistance to the publication;
- to print the title page materials sent, which identified this issue as part 1 of the proceedings of the 2005 Salton Sea Centennial Symposium;
- to adequately oversee printing of the issue, with result that many gray scale figures and black-and-white and color photos came out much darker than ideal and darker than they were in proofs; and
- to print the satellite image we provided for the cover of the issue at a size that would have shown the Salton Sea much better and made the cover more attractive.

Readers can come to their own conclusions about the competence, professionalism, and fair-mindedness of the NALMS directorate. It certainly ended up shooting itself in the foot and producing a special issue that was less than it could have been. But perhaps by providing such an egregious example of censorship of information and ideas it can serve both as a warning to the scientific community and as a notice to society at large about some real weaknesses in certain segments of that community.

Attack of the legal eagles: An update

The *Supplement to Lake and Reservoir Management* 23(5) rolled off the press in early November 2008. It was also put on the website of the San Diego State University Center for Inland Waters. Notice of its availability was sent electronically to the NALMS directorate, the LRM editorial board, state and federal agencies, Salton Sea researchers, and limnologists around the world.

Jim LaBounty, long suffering from a lung condition he knew would prove fatal in the near future, happily set off with wife Carole on an ocean cruise in Decem-

ber 2008. The itinerary was Spain to the Canary Islands to the Caribbean. But Jim developed pneumonia, spent some time in the ship’s infirmary, then in some island hospitals, suffered a heart attack and died in a hospital in Miami on December 18. Obviously a horrendous ordeal for Jim and Carole.

With Jim’s wisdom and moderating influence now absent, the NALMS directorate then elected legal harassment as a means to suppress the *Supplement*. I and the president of my university, Dr. Stephen Weber, each received separate letters, dated February 4, 2009, from NALMS’ legal counsel, Mr. Barry Grossman, of Foley & Lardner LLP in Milwaukee, Wisconsin. Included with the letters was a photocopy of the cover page and title page of the *Supplement* but not the *Axing Truth* essay (Hurlbert 2008). The latter would have given SDSU administrators at least a partial understanding of the origin and purpose of the *Supplement* and the unethical behavior of the NALMS directorate that had necessitated it.

As this special issue of *The Social Contract* attests, there is no shortage of censors and axers of truth out there in the scientific community. They normally work quietly, speak softly and euphemistically, and have a wide variety of pretexts for wielding the red pen, declaring certain topics taboo, and keeping the politically incorrect off the program. When challenged they are prone to embarrassing themselves.

The letters threatened legal action against me and SDSU if 1) the *Supplement* was not removed from the Center for Inland Water’s website, and 2) I continued distributing the *Supplement* in any form to anyone. We were given until February 20 to assure our compliance with these demands.

A check showed, however, that somebody had *already* removed the *Supplement* from our website. President Weber had passed his copy of the letter down the chain. It went to university counsel, university vice president for faculty affairs, my dean, my department chairman — and finally to our head of computer support services who was ordered to excise the heretical *Supplement* pdf. Shortly thereafter I got a separate letter from the California State University counsel saying “Your alleged conduct is not in compliance with the University’s policy...”, etc., etc., etc.

The putative grounds for a possible lawsuit were, according to Mr. Grossman’s letter to President Weber,

that I had “violate[d] the trademarks, copyrights, and other legal rights of NALMS” by having the cover page and title page of the *Supplement* simulate in several particulars the cover page and title page of the LRM Salton Sea issue. I had indeed done this, so as to make clear to the scientific community how much damage the NALMS directorate had done when they threw out the window my and Editor LaBounty’s careful planning for the front materials of the LRM Salton Sea issue (Hurlbert 2007).

Mr. Grossman further attempted to intimidate President Weber by saying that the *Supplement* had been prepared and published “on behalf of San Diego State University.” That was false, of course. SDSU had no more responsibility for that publication than it did for any of my other publications. Mr. Grossman also made clear to both President Weber and myself that we would be sued if I called *any* supplement to LRM 20(5), a supplement to LRM 20(5).



Equally inaccurate, was Mr. Grossman’s accusation to me that “the impression you have tried to create is that your *Supplement* is an authorized NALMS publication, which it is not.” If that “impression” had been my intent, I certainly made a mistake in putting near the top of the *Supplement*’s cover page, the unobtrusive phrase, “Prepared to compensate for unprofessional acts by the NALMS Directorate.” And for anyone who read beyond the cover page, the early paragraphs of the essay, *Axing Truth* (Hurlbert 2008), highly critical of the NALMS directorate would have left no doubt about the *Supplement* not being a NALMS-authorized publication.

To the cabal of intimidated SDSU administrators I responded, in part,

It is indeed unfortunate that such ill-considered and precipitous action was taken without anyone having the common decency to consult with the truly injured party, namely myself, and get the full story....Now much dam-

age has been done to SDSU because the whole weight of the administration has come down on the side of the “bookburners” rather than the “bookwriters.” Reputable scientists on five continents are following this story, which until today reflected only positively on SDSU.

To Mr. Grossman I responded, in part,

I am in the process of preparing a second edition of the Supplement that should clarify what is not already clear. [This was never completed]...The first three pages of our Supplement are...intended to let the scientific and general public know in an accurate way the intended appearance of LRM 20(5) at the end of the normal editorial procedures and consultations it had undergone. That is not censorable information....Petulance, vindictiveness and just plain carelessness on the part of the NALMS politicians were the apparent reasons why the cover, title page and dedication page for LRM 20(5) were not presented as planned. Understandably the NALMS politicians object to these facts being made widely known....Your statement is false that I “disagreed with the editorial decisions by NALMS” concerning the Preface. LRM Editor LaBounty, the reviewers, and I were all ‘in sync’ on the Official Preface. The POLITICAL decision by the NALMS politicians to censor certain facts and opinions was just sledgehammer political censorship....One member of the NALMS executive committee did confess to me that they had to consider the sensitivities of their advertisers, corporate sponsors, etc....The NALMS actions were no more “editorial decisions”, as normally understood in the scientific community, than are the actions of creationists trying to get books on evolution out of public libraries, or of the Vatican trying to ban books, or of the ayatollahs putting out fatwas on Salman RushdieThe NALMS politicians shot the entire organization badly in the foot. I tried to warn them away from doing that, via communications directly with

them and the entire NALMS [LRM] Editorial Board, but was unsuccessful.

Mr. Grossman was quick to respond to what he characterized as my “threat to violate the legal rights of NALMS by preparing a second edition of your unauthorized ‘Supplement’ to the NALMS publication *Lake and Reservoir Management*.” He reiterated the threat of NALMS to take “appropriate action” against me and SDSU.

However, this was immediately followed by a short note from him expressing curiosity as to exactly what the NALMS directorate had omitted from the Salton Sea special issue of LRM. I reiterated that information to him with additional details, and then never heard from him again. Perhaps he realized that he had been given misleadingly incomplete information by the NALMS directorate, had been encouraged to pass on the same to the SDSU administration, and was now embarrassed at having been a party to the whole affair.

As this special issue of *The Social Contract* attests, there is no shortage of censors and axers of truth out there in the scientific community. They normally work quietly, speak softly and euphemistically, and have a wide variety of pretexts for wielding the red pen, declaring certain topics taboo, and keeping the politically incorrect off the program. When challenged they are prone to embarrassing themselves.

For harassed university administrators the moral of the story is don’t be afraid of censors and their lawyers, look before you leap, don’t reach a verdict until you’ve heard from the accused, and do a better job of defending civil heretics. ■

References

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