Episode 690: Government, the Market, and Environmental Protection

Guest: Ryan Yonk

WOODS: I'm always interested in topics like this, because they are what we might call hard questions. These are the hard questions for people who support the market economy. It's easy enough to explain what's wrong with price controls and stuff like that, but it's harder to understand how could you deal with things like species preservation and pollution and questions like that. So I wanted to talk to you about it, and I know that in your book *Nature Unbound*, you take a bit of a public choice approach — at least, that's how it looks to me. So let's begin by looking at what some of the difficulties are with political solutions. This is typically overlooked, because it's assumed that because we must have political solutions, there's no point in dwelling on the shortcomings because they're unavoidable.

YONK: Yeah, Tom, that's exactly I think one of the big problems in sort of the environmental question, because you're right, they are the big questions; they are the ones that are incredibly difficult to figure out how to solve. And for the last 40 or 50 years, we've defaulted only to a regulatory approach. And so what we do in *Nature Unbound* is we take a strong look at what are the public choice-type implications. So markets fail sometimes, but also government fails, and we trace how government fails and how the bureaucracy ends up actually being set against the environmental outcomes we might all want, because at the end of the day we all want a better environment, but if the only option we have is to use a command and control response where government makes all the decisions about what everyone should want, we won't end up with something that works for most people on average. And so we explore that in some detail and trace how can you actually look at these problems and figure out when does regulation work and when does it not work. And it turns out it doesn't work very well very often.

WOODS: All right, how about the concept of rent-seeking? Look, I feel like it's likely that that happens, and I can see cases where that would happen, where environmental concerns are really just a cover for private parties to get advantages that they couldn't get otherwise, and they know everybody likes the environment so if they can cover what they're doing under the veneer of the environment they can get a lot of stuff. But isn't that relatively rare? Isn't that something not to be terribly concerned about?

YONK: Well, it's not as rare as you might think, given when you think about these things expansively. So the situation where you have somebody who wants to do some

real damage or get a real pecuniary benefit themselves, make a bunch of money by using environmental cover, those are relatively rare situations. But what's far more common is rent-seeking of an ideological or a policy preference approach. And that's really what we've seen go on in environmental policy over the last 50 years, is there are folks that have a particular vision of how they think the world should look and work, and it's not just that they think the environment should be cleaner; it's about how the economy and individuals should be organized. And one of the ways they've found a place to sort of really be able to make some progress on that is in environmental policy, things like the Endangered Species Act, which puts huge restrictions on what individuals can do with their lands that they own in order to save or attempt to save these sort of species. And so what they've done is they're able to rent-seek for their own set of preferences using the policy arm of the state to say, ah, this is how I think the world should look, and we could use this regulatory approach to do it. And unfortunately, in all of that we all lose and the environment ends up often losing as well, because there are better ways to get to good environmental outcomes.

WOODS: Let's talk about endangered species, since it's come up already. There is the Endangered Species Act, which I'd like you to talk about, and of course your book goes into these major landmark pieces of environmental legislation and gives the full story behind them rather than the cartoon version we normally get. But let me ask you what might be viewed by some environmentalists as the question of a philistine, really: why the heck should I care about species preservation in the first place? The vast majority of species that have ever existed I've never even heard of and have gone extinct already. Even before there was any human involvement at all, they've gone extinct. And I think most people are thinking, oh, the cute polar bear will go extinct or this or — but the vast majority of species you're talking about are bugs nobody's ever heard of. And maybe they'll say that in some way these bugs benefit human life, but I don't see that there's a whole lot of concern for human welfare in this movement, so I doubt it's that. Why should I care at all? Let me just ask you that complete, dumb-guy question, "Why should I even care?"

YONK: I think there are a couple of things as I unpack the sort of question you're asking, but I actually don't think it's the "dumb-guy" question. I think it's actually the core question any time we talk about endangered species, because there are really two parts to this discussion. On the one hand, you have a notion that if we're purposefully or negligently taking action and it's impacting species negatively, we may in fact be altering the environment in ways that could harm us as humans.

Now, that's a very different argument than the one that is typically made by those pushing the Endangered Species Act, that what you're doing is you're disrupting the balance of nature and that the balance of nature, if we could just get all the human beings to be unengaged from their environment, to be separate or gone, then nature would somehow be in this harmonious, edenic state where everything just works perfectly. And in fact, this is what so much of the legislation over this last 50 years has been focused on: a notion of balance of nature.

Now, it turns out that nature is never in balance. Nature is in a constant state of flux, and species have gone extinct and new species have emerged over the history of the planet Earth, all with and without human involvement. But it's this ongoing native state of flux as opposed to some native state of harmony, and that tends to be where big distinctions come, is do you view human beings as a part of their environment that's naturally going to affect it, or are they something that should be separated out, quarantined from the rest of nature, and that if we could just get rid of them somehow nature would be where it's supposed to be.

WOODS: All right, so what is — I think I know the numbers on how many species have actually — that were placed on the endangered species list, how many of them under federal supervision have wound up being taken off the list? Wouldn't that be the key metric we would use to judge the success of that program?

YONK: Well, so there are a couple of problems with that, because there are a few ways species can leave the endangered species list, and it turns out that most of them leave the list not for the reason that we would view as being the positive outcome of the Endangered Species Act, which is recovery. There are now enough of them that they're actually able to be self-perpetuating. In fact, on average most species leave the list either because they in fact go extinct or because there was an error in taxonomy and they're not in fact a distinct species, and so they get pulled off the list because they were an artificial creation.

And so, yeah, that's the real discussion on the Endangered Species Act is, are we actually making progress. And the evidence is not strong that in fact we are. In fact, we're in the middle of a second project that will eventually come out that looks at this in detail, and when we really sort of explore this we don't see any of it, that all the federal spending that has happened on endangered species actually increases the probability that a species will recover.

WOODS: Okay, that's more or less what I thought, but yet what it has done, it has accomplished something, which of course is to interfere with people's land use, normal land use, and to make them — it's what one of my friends used to call anarcho-tyranny, that you have major violent crime going unsolved and unfixed and running rampant, but ordinary people doing ordinary things, the government really clamps down on them. They make sure and punish them. And of course the effect of this would be that if I happen to see a representative of an endangered species on my property, I see one of these creatures, well, I have every incentive to just kill the thing, because I know that it's going to cause me endless headaches, and maybe I might not even be able to sell the property, I can't develop the property, there'll be all kinds of restrictions placed on me. So the net result is to make people into mortal enemies of these species.

YONK: Yeah, in the West there's actually, they've developed a bit of a trite response, which is when you find an endangered species, what's the best course of action for a landowner? Well, it's to shoot, shovel, and shut up. To eliminate it, basically bury it, and then never talk about the fact that it existed. And it does; it creates what we

economists would call perverse incentives for folks that find them, so rather than incentivizing a landowner to try to make a species more likely to survive, their incentive is to make it so that they're not existing and then to even take preemptive action on their land to make so that if you know there's an endangered bird that's living on some land close to you and you know what kind of cover or trees or plant life that that bird likes and would attract it, you go in and you take out all of that to prevent the bird from ever getting and settling on your property. And so it ends up creating a bunch of these sort of perverse incentives, where on average, an endangered species may end up worse off, particularly once someone knows that species is in the area or on their land.

But there's another part of what you brought up that I think is important, and that is this notion of somehow in these environmental legislations, we manage to turn everyday people going about their ordinary lives doing what people do into some sort of criminal element. And nowhere is that more sort of apparent than Section 404 of the Clean Water Act, which deals with wetlands, where if you have a wetland or wet area on your property, you run the real risk if you do anything to drain that or to change it from being this wetland, which we might call a swamp somewhere else, you run the risk of running afoul of Section 404 of the Army Corps of Engineers and hundreds of developments have been impacted by that, including some around the area where we live, where what had been cow pastures — not sort of pristine wetlands with the reeds and the wonderful bird sanctuaries that can happen there — not development can happen because the land is damp and therefore gets classified as a wetland. And if you do anything to it, you run the real risk of being branded a criminal.

WOODS: All right, let's talk about some of the other items here that you have in your book. You talk about renewal energy; you talk about wilderness, clean water, clean air, and so on and so forth. Now, I know that when it comes to, let's say, the libertarian world and environmentalism, there are a couple of different camps. And there'd be one, which is the radical libertarian camp that wants to figure out how can we solve these problems without any state involvement whatsoever. And then there's another, maybe like the free market environmentalists who do see a role for government but think that the market can play a very helpful supplementary role that's being missed by policymakers. Now, do you fall into that second category?

YONK: No, I fall somewhere between the two categories. So what we want — I don't describe myself as being a free market environmentalist, although I share a lot of sort of notions about them, but I also don't necessarily reject the possibility that some action by government may make it possible. What I try to consider when I think about these things is what's going on that's creating voluntary actions to make the environment better, because for me, sort of in my own view of — I call myself a classical liberal — I'm interested in how do you get individuals together doing voluntary things to make the world a better place. And if we can figure out what these sort of arrangements are that look like that, then we end up in a better place. And some of what free market environmentalism does allows that to happen, and it ends up

necessarily heavily limiting the role of the state. It cannot be a regulatory approach if we're interested in voluntary action leading to these better outcomes.

WOODS: Well, for instance, let's take a case like the national parks. A lot of times I'll hear things like, well, the private sector could better manage the national parks, things like that. And I realize that the pure, strictly private property, libertarian position on the national parks would be highly unattractive to most people, which would be let the chips fall where they may. People want to have a national park; then somebody will provide them with a national park, but how do I know that that's what people want, and it seems arbitrary to me to decide that that's what all the land should be used for. Now, I know that not a lot of people are going to support me on that, but what would be your response to something like that, if somebody said, if you had your way there would be strip malls all over the national parks?

YONK: I get that question actually a lot. I work at — land policy is one of the primary policies I work in, and my response to that is that I don't preclude the possibility that there would be more development in places that are national parks, but if national parks and national monuments, which is where the argument often comes up, are truly these sort of scenic vistas that are driving people and the reason for them being protected is that, I tend to believe that people's preferences lead that towards more preservation. Now, would it look different than it does today? Probably, because what we have today in national parks is they're not just set aside; they're actually political entities. They get manufactured to be what they are in a world where they have to meet two mandates, which is preserving it unimpaired and promoting recreation. And so you end up with this weird creation. But yeah, there might be more developments; there might be less.

And then to the sort of hardcore folks on the other side that say we should eliminate them all tomorrow, I look at it and say I'm not necessarily opposed to that it should be all free market, but I don't see a path of how we get there today and I don't see a path forward, so if we're going to have a real productive policy discussion, we've got to talk about how do we make things better on the margins as well and figure out if there's a way to prevent future things like this from getting developed where government ends up having this core, central role. At my core, I guess I'm a pragmatist.

WOODS: Yeah, fair enough, fair enough. I think we should say something — we've got to say something about air and water, because everybody thinks of those when they think of the environment — at least, normal people. That's their first thought, is air pollution and water pollution.

YONK: Yes.

WOODS: And you've got chapters on the Clean Air Act and the Clean Water Act. What are some parts of that story of the enactment of those two acts that run counter, let's say, to what most people probably think?

YONK: Well, so in both those cases, the sort of standard narrative around them is you have the environment, the air is getting dirtier, the water's getting dirtier, all the way up to the point where you get to the last 1960s and early '70s, when you start to get major legislation in this regard. But it turns out both air and water had been getting cleaner for a long time prior to that, due to changes in both preference — as people got wealthier, they were more and more focused on it — but also local actions had started to change that.

And so what really happens — so the great one in water is the Cuyahoga River fire, which is sort of what everybody points to. The river manages to catch on fire, and that is dramatic and it is disconcerting, but it's also, the reality is that the river had actually been progressively getting cleaner over the decade before that, and the river had been catching fire far less often than it had in the past. That one just happened to coincide with the moment when television had reached the point where you had lots of news coverage, and so you got a made-for-TV disaster. Same thing happened with an oil spill off Santa Barbara, which brings it right to the top of people's attention, despite the fact that on average it had all been getting better over time. Now, it didn't mean that it was perfect, but it did mean that the trends had been moving in that direction all without this massive central regulation.

WOODS: All right, so in other words this is another example of something that I've pointed out repeatedly on the show here, which is that we give either federal legislation or federal regulatory bodies a pass when it comes to questions like this. We see that worker safety has improved after OSHA, but we don't bother to ask what was the trend in worker safety before there was OSHA. Well, it was already declining. So the same sort of thing here. You already have these improvements, but at the same time it seems like it's difficult in general — I mean, some of the reasons that air and water pollution came down was that the state governments got involved in it. So there's still a government hand in this. Is there a way to take something that's so intractable and difficult as water and air and come up with a market solution other than tradable pollution rights?

YONK: Yeah, so tradable pollution rights has been where everybody sort of ended up, and there's an interesting application. But at its most basic root, there are a number of ways to deal with this. And I'm not necessarily saying that regulation can never lead to improvements in environment, but it's where we've always defaulted to without considering what the problems are of it, because when you decide — most of clean air regulations, for example, isn't just trying to clean the environment; it's actually specifying what the emitters will use to clean up their emissions. So it's hampering not just all the stuff that's way outside of the regulatory sphere, but it's actually saying you will do this in picking one technology over another, leading to even worse outcomes.

But there are other possibilities for arrangements and ways to do this, one of which is use of the common law and the tort system, where if you can demonstrate that you were harmed, then you have the ability to engage with it. You have to have an assignment of property rights, which is complex, but you could engage and use that

where people are responsible for their own outcomes. Now, it's air and water so there are intractable problems here, and I guess what we're really focused on in the book is how do we get individuals and policymakers to step back from their instant reflex that the answer must always be regulation, to ask the question, is there another way to think about this. And I don't have all the answers for how this could happen, but my big concern is that nobody's thinking about is there another way other than simply this command and control centralized regulation. And if we were going to make great progress going forward, it would be more smart people thinking about those questions, because if we keep betting on the same horse, we'll continue to get the same sort of outcomes.

WOODS: I appreciate your point that you don't absolutely exclude the possibility that regulation could yield better environmental outcomes, because of course I don't deny that either. But it's like saying, hey, look, over in Norway everybody gets a free college education. Well, if my tax rate were 70%, I would darn well better hope I'd get something out of it. So it's not like I absolutely deny that government involvement can ever yield me a benefit. That's the point of government, is to try to give benefits to certain people and then spread the costs around. So it's not that we're just pigheadedly saying government can't possibly do any good; it's that we have many, many possible — we have many goals that we want to reach in life, and we have to balance them somehow instead of just arbitrarily deciding that there's one goal that everybody has to share and we all have to hold it in common. That's not necessarily so.

And incidentally, recently I've not come across two people in my Facebook feed who have gone to being basically anti-civilization anarchists. These aren't people who want to privatize the police force. I'm talking about people who want to go back to hunter-gatherer status, because they say that what you, Ryan, are advocating is unsustainable in the long run, that civilization itself is unsustainable and we have to be prepared to go back to a primitive condition. And I thought this was the sort of thing that right-wingers just invented. I didn't actually know there were people who actually think — and they're on my Facebook wall now, so I know that there are people who favor this. What do you say to people who say — your solution is more economic growth will solve this problem and it will make things cleaner. They'll say more economic growth is just going to put more pressure on the system.

YONK: Yeah, so in part I think the response is you have when you talk to folks like this — and this is really the root of the balance of nature argument, which is that if you're going to separate humans from their environment, you either have to prevent them from affecting everything around them, which is a return to that hunter-gatherer, although even that's a bit of a stretch to think that they didn't impact their environment when they clearly did — or you have to eliminate them altogether. And it's in that root in that base philosophy that so much of this stuff starts to come out of. So my response to them is generally that we're going to have to talk three or four steps back, which is what's our vision of the world and our vision of where humanity fits in it. And my primary question is how do we make individual humans better off? And that's one of the sort of assumptions of my own worldview.

But in a larger sort of point about the regulatory side of it, I think one of the things that often happens is that we have these grand pronouncements, and then we forget the second part of any decision we make, which is what are the tradeoffs and opportunity costs of doing this and not that. And that's often, especially in environmental policy, those that want to talk only about regulation as the way forward never want to talk about the tradeoffs that come from doing that. What is it that we're having to trade off to do this approach to environmental protection as opposed to others? And it's almost never really talked about in a meaningful way, because it's that axiomatic notion that somehow humans have intervened in the system, they've caused the problem, you have to get their intervention out of the system, and everything goes back to normal. Well, policy is never that simple. There are always tradeoffs, regardless of the choices that we make.

WOODS: Well, the book is *Nature Unbound: Bureaucracy and the Environment*, and I want to urge people to check it out. It's at TomWoods.com/690. We're going to be linking to it. Is there anything, is there a website or anything that you'd like us to include there, where people can follow your work specifically, or is the book sufficient?

YONK: No, absolutely; if you visit Strata.org, we have a variety of these sorts of things up there, and of course visit the Independent Institute's website, which has a ton of other folks working on these same sort of questions.

WOODS: And that's Independent.org if I remember that correctly. We'll have both of those links —

YONK: That is correct.

WOODS: Okay, so we'll have those both up at TomWoods.com/690. Ryan, I appreciate your time. I hope we've whetted people's appetites enough to go check out what you've done here, and I appreciate the conversation.

YONK: Thank you very much, Tom; I appreciate being on with you.