

The Nature Conservancy, the Press and the Social Construction of Accountability

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Introduction

This paper explores the May 2003 Washington Post investigative articles concerning The Nature Conservancy (TNC) for their implications for our understanding of the dynamics of accountability for nonprofit organizations. This series strongly suggested that the governing board of the nation's largest environmental organization had permitted untoward, if not illegal, land transactions that benefited individual Chapter board members, had, in the name of its stated desire to work with corporate partners, too often lost sight of its environmental mission and had "wasted" many thousands of dollars on community-based projects on Virginia's Eastern Shore that had no hope of success. In short, the Post articles suggested that Conservancy governors had failed in ethical terms, failed in fiduciary terms and failed in their responsibility to stay focused on the organization's mission. Moreover, these failures had, according to the Post, profoundly broken trust with the organization's stakeholders.

We explore this episode not only for what it reveals about public perceptions of accountability, transparency and governance—at least as these are revealed by two investigative reporters employed by a leading media corporation—but also for what it may tell us about how those perspectives are developed. That is, we think this series provides a useful illustration of what might be termed the social construction of accountability—as applied to nonprofits (Edelman, 1998). Since it ran on the front page for three days and was the product of a year of full-time work by two journalists, the newspaper obviously accorded the Conservancy investigation high importance. And while the Post articles alone did not create the continuing ferment on Capitol Hill concerning whether national legislative action is necessary to rein in "errant" nonprofit organizations, this episode surely contributed to the salience of that concern. To explore these issues in this paper we address four related concerns. We emphasize that we see our approach, and indeed this work, as tentative and exploratory.

We examine first the rhetoric of the Washington Post series with an eye to its implications for our understanding of the standards of accountability that are applied within it. That is, we study precisely what the reporters said in their series and how they said it for what it suggests about how they conceived of accountability. We are particularly interested in these articles as narrative and seek to show how as a group these stories offered a particular view both of accountability and of a specific set of values claims linked to it (Roe, 1993, Boyce, 1995, 107-137).

Second, we explore whether this episode meets the conditions of what policy scholars have labeled a “focusing” event that might be said to have legitimated a particular conception or construction of nonprofit organization accountability. We conclude that it did, at least in the sense that the series raised that concern to particularly high salience among key public decision-makers occasioning U.S. Senate Committee, Environmental Protection Agency and Internal Revenue Service investigations of TNC.

Third, we analyze how the governing board and president of the Conservancy responded publicly to the issues raised by the series. We analyze the rhetoric and claims of TNC leaders about what they perceived to be appropriate forms of accountability, as well as what they argued concerning the relevance and accuracy of the specific issues or “evidence” presented in the series. This analysis clarifies whether the participants viewed the Post claims as narrative and just what they took that story to be. We also highlight one additional dimension of this issue, whether Conservancy claims really made any difference (as the organization sought to respond to the series) in the hot house-like atmosphere that is Washington politics now (Brooks, 2004). We follow Birchard (2005) in suggesting that Conservancy leaders eventually came to believe that they had very little discretion over how to respond and developed their response accordingly. This fact raises interesting questions about the power and accountability of media organizations as they “frame” concerns in a fashion that profoundly mobilizes bias amongst stakeholder and general publics.

Last, we consider several of the implications of the institutional changes that have occurred at TNC as a result of the Post series. For roughly a dozen years prior to this newspaper series and formally since 1996, the Conservancy had slowly developed a view of conservation and its own role in those efforts that it had

come to call community-based conservation (Howard and Magretta, 1995). That approach required that TNC develop a range of community-based partnerships aimed at securing continued sustainable development of the communities whose environs included ecosystems and habitats that the organization deemed important. The aim was to help the communities so that, especially in those cases where their growth was not secure or indeed, when they were in decline, economic pressures would not undermine a community's willingness to assure conservation of its ecologically significant habitats. We raise this issue as a means of highlighting several questions about the implications of publicly constructed accountability claims for the potential and purport of organizational experimentation and learning.

Our Approach

We begin our exploration of these issues with an analysis of the rhetoric employed in the original Post series. We examine the language offered in the articles in an effort to discern the meta-narrative regarding accountability that underlay it (Roe, 1993, Boyce, 1995). We supplemented this documents review with a limited number of key informant background interviews with Conservancy staff. We sought to interview the authors of the original newspaper series too, but they declined on the ground that public policy actions, based at least in part on their series, are still pending.

This work contributes to the burgeoning literature on nonprofit organization accountability by tying theory building in that domain to the specific assumptions and norms concerning accountability that are taken for granted in the culture, and by suggesting that those claims can have profound effects on what actions and policies organizations are given latitude to explore when the public is mobilized. The Post analysis called into question how TNC was conducting its traditional program, as well as whether it could continue to bridge sectors in the ways it had adopted to accomplish its mission. We also believe that this paper contributes to the literature by joining the policy agenda setting literature and those concerning accountability/claims-making and storytelling. We argue that accountability in the policy process, and therefore in democratic governance, is a product of social framing and that the media plays a critical role in

that process. In this instance, indeed, a media entity independently took actions and offered arguments that structured the reactions of policy elites thereafter.

The Series and its Rhetoric

On May 4, 2003, The Washington Post began to publish what would become a total of ten articles over three days concerning The Nature Conservancy. The articles argued that TNC had lost its way and was pursuing land deals, development opportunities and governing board policies that had taken it far afield of its original mission and values. The series was researched and written by two investigative journalists, David Ottoway and Joe Stephens, and employed rhetoric that was well suited to such an orientation. The initial sentences of the first story set the tone for the remainder of the series:

The Arlington-based Nature Conservancy has blossomed into the world's richest environmental group, amassing \$3 billion in assets by pledging to save precious places. ... Yet the Conservancy has logged forests, engineered a \$64 million deal paving the way for opulent houses on fragile grasslands and drilled for natural gas under the last breeding ground of an endangered bird species (Ottoway and Stephens, "Nonprofit Land Bank Amasses Billions," 2003, A1).

On this wording, readers unfamiliar with the details of the Conservancy's land conservation strategy or its mission to preserve bio-diversity would find themselves quickly concerned that the organization had become "hugely rich" by misleading its donors, and instead of practicing environmental conservation had, in fact, pursued the opposite. The authors sharply dichotomized the stated goals of the organization with its alleged actual pursuits, thereby strongly implying that something was seriously awry. In this view, conservation was either practiced or not and TNC was not practicing it. The organization was not presented as having to permit some development to secure other parcels or pieces of property or to balance competing use claims on landscapes it sought to protect and manage for the future. Instead, rhetorically at least, any development was bad if it occurred under the auspices of the organization. The story painted the conservation question as black or white and the revealed TNC practices were black or "bad."

The authors adopted a similar rhetorical approach to the Conservancy's famous (and much lauded) capacity to work with a wide range of groups, including corporations, to attain its ends:

The Nature Conservancy has traveled far beyond its humble beginnings, when it relied on small donors and acquired a few small plots at a time. Its governing board and advisory council now include executives and directors from one or more oil companies, chemical producers, auto manufacturers, mining concerns, logging operations and coal-burning electric utilities. Some of these corporations have paid millions in environmental fines. Last year, they and other corporations donated \$225 million to the Conservancy—an amount approaching that given by individuals (Ottoway and Stephens, "Nonprofit Land Bank Amasses Billions," 2003, A1).

This passage is interesting for a number of reasons. First, the reader is led to assign guilt by association. The question raised is not subtle: how could a conservation organization possibly deal with polluters, let alone have their executives serve on its governing board and raise funds from them? The authors framed the question without nuance: there are good guys who pursue conservation and bad polluters. TNC was now in bed with the polluters. How can that be good? One might just as easily have argued, however, that an environmental organization formed to preserve biodiversity cannot avoid dealing with polluting organizations if it is to pursue its mission seriously, and far better for that entity to be involved with those organizations constructively than not. The analytic point is that the story did not lead the reader to reflect on the strengths or weaknesses of TNC's approach to partnerships, but to dismiss it as tainted a priori.

Rhetorically too, the authors implied that TNC was somehow as culpable as those polluting organizations that were fined—because of its association with them—when, of course, it was not guilty of pollution at all. Nevertheless, the stigma and opprobrium directed at major polluters in the minds of most readers was rhetorically linked to TNC in the story's narrative. As in the prior example, the authors chose to present the issue as a pure and simple dichotomy. If this case involved subtleties and tradeoffs among competing values, the Post articles did not acknowledge them.

The authors also stressed the “humble beginnings” of the Conservancy in the cited paragraph and compared those unfavorably to the size and complexity of the organization today. The reader is led to raise an eyebrow over the growth of the organization per se and not to wonder why small is necessarily better than large or simple more desirable than complex. Interestingly, later in the same story, Stephens and Ottoway provided a profile of the number of employees, revenues and reach of the Conservancy and took particular note of the market value of the organization’s headquarters building: “The group’s ‘worldwide’ headquarters is in an eight-story, \$28 million building in Arlington” (Ottoway and Stephens, “Nonprofit Land Bank Amasses Billions,” 2003, A1). It is unclear why the size and value of the building as such are relevant and especially odd that the term worldwide was placed in quotation marks. Factually, the Conservancy does have operations all over the globe, so precisely what is being imputed is unclear. What is more certain is that the focus on global reach contrasts sharply with humble beginnings and that theme in turn links neatly to the series’ premise that corporate influence at TNC was now unduly high. It is not clear either why a growth in capacity sufficient to allow world-scale efforts might not be considered commendable unless, perhaps, one ties humble beginnings with simplicity and purity and opposes those to complexity, difficulty and opaqueness to sharpen the impact of one’s rhetorical claims.

In the final paragraphs of the initial article of their investigative series, Stephens and Ottoway wrote, under the subhead “Logo for Sale,” that “Toilet cleaner is not the only product associated with the Conservancy. . . . The Conservancy has rented its name and logo for use on neckties, breakfast cereal, coffee and credit cards” (Ottoway and Stephens, “Nonprofit Land Bank Amasses Billions,” 2003, A1). Two points are interesting about this rendering. First, the subhead is misleading, as the paragraph makes clear. TNC licensed its logo to these users; it did not sell it. But selling the rights to a prominent nonprofit organization’s name obviously packs more rhetorical punch than does licensing it. Second, the Conservancy effort to raise funds via affiliation marketing is presented in the same phrase as toilet cleaning, surely not the best possible light in which to begin a dispassionate analysis of the organization’s marketing efforts—good or bad. This rhetorical device frames the issue negatively even as the reader encounters it for the first time.

These examples might be multiplied but they suggest a particular sort of rhetoric—one that is strongly imputational and inferential in cast—that points to specific markers (values) that its readers are assumed to share as much or more as it does to providing an even-handed analysis of the claims at issue. But what are those assumptions that together might constitute a meta-narrative for this investigative series? We believe they may be fairly characterized as a series of related and strongly stated dichotomies:

- Simple vs. Complex. The good old days when TNC was small and did not have much money versus the complexity of Conservancy operations today—hundreds of employees who work all over the world and engage in an array of transactions and marketing efforts. Complexity is suspect.
- Humble nonprofit vs. corporate behemoth. The Conservancy was once an independent and humble nonprofit supported by small donors, but is now a rich corporate fellow traveler. Corporatism is suspect.
- Once pure nonprofit vs. crony of for-profit polluters. The small and donor-driven TNC has now been profoundly compromised by its chosen associates and no longer provides a clarion voice on behalf of the environment as a result. Corporate partnerships are suspect.
- Once pristine pursuer of the good vs. money-grubbing corporate handmaiden willing to sell its soul (represented by its name) for funds. TNC is guilty of a Faustian bargain with corporations that, in truth, can never share its aims. Entrepreneurialism by a nonprofit is suspect.

- One time preserver of critical habitats vs. too willing developer today. Allowing any form of development or balancing of competing interests is problematic for TNC's ability to pursue its mission. Compromise and conciliation are suspect.

The Prince and the Pauper as Meta-narrative

These comparisons sharpened drama for readers and lent punch to the narrative presented. But they also provided little context for the choices made by Conservancy decision-makers. To say that is not at the same time to argue that all for which Stephens and Ottoway criticized the TNC, was misdirected. Rather, it is to contend two things. First, that the Post writers offered a specific image of an appropriate role for the organization—complete with an accompanying narrative—and second, they suggested that it was no longer playing that rightful role but one that ought not to be sustained instead.

The underlying tale on which their narrative was based can be understood as the familiar one of the prince and the pauper. The good-hearted but poor pauper, TNC, suddenly gains power and riches and loses perspective and begins to act outrageously. The new prince loses touch with his goodness and fundamental values and begins to behave with arrogance and cannot see his own flaws. He does not perceive that he has changed. Instead, he needs a blunt but well-meaning “friend” to bring him around to see how far he has strayed and to perceive the error of his ways. He must be humbled before “healing” can begin. That “plain-speaking friend” in this narrative is The Washington Post authors. The value claims implicit in this story line are as important as the tale presented. Each is interesting for itself but also for what it suggests about assumptions concerning how the Conservancy roles might best be understood. Not coincidentally, these overlap with the assumptions evident in the rhetoric employed in the series:

- The role of The Post in this series was to humble an organization gone awry, to bring it to its senses before it became irredeemable. This is a narrative not only of bridled outrage, but also of offered redemption.

- The Conservancy exists to serve specific values: land conservation and preservation (not, interestingly enough, biodiversity as TNC itself claims), and these are absolute in their character.
- Conservancy staff can never approach the professionalism and acumen of their for-profit counterparts, who will necessarily prevail and manipulate them in any sustained series of interactions. The assumption is that a nonprofit organization “partnership” with savvy corporate elites is not possible. The latter will use the relationship to its own—and too often nefarious—ends. One cannot win in a pact with the devil. The mythologizing here is self-evident.
- Nonprofits must be small and remain linked to the “people” directly to play their rightful social roles.
- Complexity is the enemy of successful action because it necessarily makes effectiveness relatively difficult to realize.
- Complexity is the enemy per se of transparency.
- Nonprofits may not make profits, by definition. To do so suggests competition with the for-profit private sector. At the same time, profit making de-legitimizes the nonprofit organization that pursues such a goal. For both reasons, such efforts are likely to fail.

It seems fair to say that these claims would be quickly understood and widely shared among many Americans, not least because of their relative simplification of otherwise complex conditions and issues. In a sense, these arguments serve as touchstones for a broader mythology concerning the rightful roles of

nonprofit institutions in American society. To that degree, the Post series was rooted in public expectations as much as it was in the analysis of specific TNC policies, land deals or actions. The Post's effort framed the social construction of the broader public's understanding of those issues by means of how its writers chose to present the concerns in play. In this instance, the authors presented the Conservancy's actions as wholly out of keeping with the organization's stated aims, and therefore scandalous. The series offered the Conservancy an opportunity for redemption, but implicitly, at least, TNC had first to admit the error of its ways, humble itself and admit its alleged mistakes. The prince had to reaffirm his true status as winsome pauper and to abandon the suspect trappings of his acquired standing and behavior. The narrative demanded penitence, and absolution could only be granted if and when the sinner had met specified conditions. In principle, those conditions were essentially non-negotiable. Policy elites and the general public learned of the Conservancy's alleged wrongdoing together as The Post published its articles. Since the lens the authors chose through which to frame the issues they presented was uniformly negative, the pieces created a public furor and elicited a robust response from public officials. It is to understanding better the dynamics of how and why that uproar arose that we now turn.

The Series as Agenda Setting Focusing Event

Thomas Birkland (1997) has offered a thoughtful conception of the role of focusing events in the policy agenda setting process. He has defined a potential focusing event

... as an event that is sudden, relatively rare, can be reasonably defined as harmful or revealing the possibility of potentially greater future harms, inflicts harms or suggests harms that are or could be concentrated on a definable geographical area or community of interest, and that is known to policymakers and the public virtually simultaneously (22).

Like other analysts and theorists of the public policy agenda-setting process, Birkland views the media role as critical in public understanding of these potential policy-focusing scenarios. Media attention can provide or enlarge the scope of potential conflict, elicit and target possible explanations and more broadly, frame

public understanding of events. In this case, a media institution was responsible, on its own initiative, for drawing attention to the focusing event and for framing how it ought to be regarded. That said, it is useful to keep in mind that “Problems and their proposed solutions move higher and lower on the agenda as a result of conflicting interpretations of facts and trends and with changes in the ideological tastes of the electorate” (Birkland, 2). What may be most noteworthy about this episode is that the Post’s authors so strongly and successfully shaped both elite and popular perceptions of the appropriate understanding of the event’s scope, as well as how the problem should be constructed. Following publication of the series, many media outlets began routinely to refer to the “Nature Conservancy scandal.” True or not, that characterization became a commonplace and reflected popular willingness to accept the frame and narrative adopted by the Post writers to report their findings.

While the newspaper’s reporters have not indicated why they chose to study the Conservancy, several elements of the time frame and policy context were likely relevant to their decision to do so. First, the Red Cross, another major nonprofit with a strong and strongly positive public reputation, was widely criticized for its perceived lack of accountability in its handling of September 11 tragedy donations, and specifically for not being forthright to its donors that not all of these were targeted to 9/11 victim relief (William Walker, “Storm Brews over Sept. 11 Funds”, 2001, A18). Second, the Conservancy had grown tremendously in the 1980s and 1990s and was now, easily, the largest environmental conservation organization in the United States. Its rapid growth had paralleled its wide use of partnerships with for-profit corporations, large and small. Both TNC’s decision to work with for-profit entities as a primary mode of how it would conduct its affairs and its extraordinary expansion were unique among environmental organizations. Third, the series followed on the heels of several high profile corporate scandals, including the Enron and WorldCom debacles that resulted in congressional passage of the Sarbanes-Oxley Act in 2002. That statute imposed very strong financial reporting requirements on for-profit corporations. Finally, partly as a result of the perceived Red Cross “scandal” as well as alleged corrupt behavior at the Washington, D.C United Way, accountability and transparency were highly salient issues for those interested in nonprofit and philanthropic organizations just before, and at the time of, the publication of the Post articles (David Johnston, “Grand Jury is Investigating United Way in Washington,”

2002, A17).

Whatever their rationale for pursuing the series, Stephens and Ottoway framed their articles in a fashion that surely highlighted issues that might encourage policy-makers to regard the series as a focusing event. The articles burst upon both the general and attentive publics at once (a key attribute of a focus event according to Birkland) and

- Alleged untoward and unethical, if not illegal, behavior among a large number of TNC officials
- Suggested that the harms alleged were to the taxpayer, who was presented as paying for the wealthy to enjoy tax advantages at the expense of, rather than in service to, conservation goals
- Alleged harm to the general public in another sense too as it contended that contributions had been wasted and that TNC officials had not adequately punished those responsible
- Implied that Conservancy officials nation-wide had misused the public trust in their pursuit and use of publicly legislated tax advantages
- Portrayed Conservancy chapter governing board members as too often simply self-interested and nearly as often engaged in self-dealing
- Implied that illicit practices had been allowed to continue by a national board of governors that was simply inattentive to organizational needs and to rightful

concerns about transparency and accountability—both fiduciary and programmatic (Stephens and Ottoway, 2003).

Public policy scholars have defined agenda setting as that set of processes that determine which problems and alternative solutions gain or lose public and elite attention (Cobb and Elder, 1983, Baumgartner and Jones, 1993, 2002). This series went far in placing tax provisions and nonprofit organization governance on national legislative and administrative policymaker screens as critical issues demanding inquiry, and likely, change. And beyond this official reaction, the series elicited a broad response from the general public, including many major TNC donors, who demanded to know what the Conservancy would now do to redress the concerns raised and to address the “abuses” uncovered (Birchard, 2005, 220). In this connection, Birkland has argued

First, focusing events gain their power from the objective attributes of the event—the damage or injury wrought by the event, for example—but the social construction approach suggests that this power is greatly enhanced through the reduction of these events to simple, graphic and familiar symbolic packages. ... The news media and advocates of policy change use these symbols and images because they are easier to interpret than are more complex stories and analyses of public problems (11).

Birkland also has noted “agenda setting is not a neutral, objective or rational process. Rather, it is the result of a society acting through political and social institutions to define the meanings of problems and the range of acceptable solutions. These strands thus describe the motivations and actions of participants in policymaking and how they interact with the nature of the problems themselves” (11). The Post series certainly provided a vision of the issues it traced that was simple, symbolic and powerful. When policymakers responded, any distinction between whether the series represented a potential and a full-blown focus event became moot. The series and its many allegations shortly became a cause célèbre for policymakers.

Policy Actors Respond

On May 9, 2003, just days after the first piece in the series appeared, Senator Charles Grassley (R., Iowa), Chair of the United States Senate Finance Committee as well as its ranking Democrat, Senator Max Baucus (Montana), announced that they were troubled by the allegations presented by the Post articles. Stephens reported the Senators' response the following day under the headline "Charity's Land Deals to be Scrutinized":

'The Post reports shed light on very questionable practices by this charity that many have viewed as a pillar,' Grassley said. ... 'I am committed to holding The Nature Conservancy accountable.' ... 'I am very concerned by reports that individuals and organizations are improperly benefiting from tax breaks on charitable donations and developing on environmentally sensitive lands'. Baucus said. ... 'It's very important that we dig deeper to examine what's going on in these situations. If the allegations are as serious as they appear on the surface, we must look at ways to increase enforcement of laws that are already on the books. I also won't hesitate to move forward with additional legislation to protect the integrity of our natural resources and halt tax abuses if we find that's needed' (Stephens, 2003, A2).

In a follow-up to this stated concern, Grassley and Baucus sent TNC a seven-page letter on July 16, 2003 demanding records dating back a decade across 18 topical areas. The request involved thousands of pages of materials and involved the negotiation of a number of privacy waivers. On November 4 Grassley wrote again to express his impatience with the pace of TNC's response to the probe. Conservancy President McCormick responded on November 14 that the Committee's staff would receive all requested documents by November 18 (<http://nature.org/exclude/print.php>). Grassley wrote TNC again on March 3, 2004, thanking the organization for its previous cooperation and requesting additional information. On March 30,

2004, Grassley released a statement for the press in response to TNC actions regarding the Post series and the Finance Committee investigation that arose from it that stated in part:

I'm pleased that it looks like The Nature Conservancy has gotten the message that business as usual won't cut it. ... I'll study The Nature Conservancy's reforms to see if some of them can have wider applicability across the board for all nonprofits. Charities benefit from big tax breaks, so it's important that they be accountable to the public. People should have confidence that when they write a check for charity, the money will help the needy, not the greedy (<http://finance.senate.gov>).

The Finance Committee probe is still formally underway as this is written. The Finance Committee held a hearing on July 22, 2004, aimed at exploring concerns first introduced by the Post series although TNC officials were not called to appear (<http://finance.senate.gov/sitepages/hearing062204.htm>).

On May 15, 2003, the Landmark Legal Foundation, a conservative public interest law firm, formally asked the federal Environmental Protection Agency to investigate whether any of the \$10 million granted by that agency to the Conservancy from 1993-2002 had been used for purposes other than those intended. The complaint specifically cited Post allegations as its basis. The EPA responded to this formal request on July 17, 2003, suggesting that it would indeed initiate a review "not only of whether the Conservancy grants were used for land acquisition activities, but will conduct an on-site review of the Conservancy's administrative system." (PR Newswire Association, "EPA Investigating Nature Conservancy at Landmark's Request", July 17, 2003, p. NA).

On December 22, 2003, The Internal Revenue Service announced that it would initiate a probe of the Conservancy's fiscal 2002 tax return as well as its Form 990 for that year (<http://nature.org/exclude/print.php>). On August 10, 2004, the agency broadened its inquiry to examine the issue of whether tax-exempt entities were paying their executives "excessive compensation." On October 22, 2004, the IRS published notice of its intent to launch a broader inquiry into charity use of conservation easements nationwide (<http://www.irs.gov/charities/article/0,,id=124939,00/html>).

We do not wish to treat each of these inquiries in any detail but instead to point up two salient facts. First, the EPA and IRS already had extensive and routine dealings with the Conservancy. Moreover, both agencies already had fiduciary and accounting standards in place to test the appropriateness and legality of TNC actions vis-à-vis their expectations. Neither agency had raised concerns about Conservancy practices prior to publication of the Post series. But the articles literally catapulted these issues to salience and to a sort of prominence that presupposed that something untoward or illegal was afoot. Second, it is useful to recall that Senate Finance was and is responsible for the relevant law governing Conservancy activities. To date at least, TNC has not been found guilty of any legal wrongdoing or even been asked to go to trial to defend against such allegations. If the law is a problem, it is unclear whether that is the responsibility of the Conservancy, TNC and other charities or the Congress and those charities benefiting from the legal provisions. In short, any fair-minded reading of this episode must include pondering whether it is the consequence of a “nonprofit run amok,” or instead the consequence of specific law and reporting requirements interpreted in new ways. The Post writers presented those practices in a powerful narrative form that laid responsibility at the feet of one of the actors involved rather than sought to tease out the multiple causalities likely operative. If the latter set of conditions (as we contend) was actually the case, Derthick has shown that lawmakers are quite expert at blame casting and remedy seeking even when it is their law that is the root cause of a controversy (1990).

The Conservancy President and Governing Board Respond: Is Anyone Listening?

On May 13, 2003, about a week after the first articles in the series appeared, Conservancy president Steven McCormick wrote a guest opinion column for The Post, “Balancing The Nature Conservancy Story.” Although McCormick suggested that TNC “takes seriously the issues of oversight, judgment and integrity raised by The Post” and averred that the Conservancy had already taken “vigorous measures to respond,” the CEO devoted the remainder of his column to what he called a point-by-point rebuttal of the newspaper’s “distorted picture of our organization.” A more detailed critique of the series and its arguments appeared on TNC’s Web site. That response stressed how the organization’s mission demanded

that it be innovative, collaborative and a risk taker. While both the Web site critique and column acknowledged mistakes, neither offered an apology. Instead, the statements indicated TNC's desire to "set the record straight" and the Web site critique declared that the Conservancy "must and will continue to take risks. . ." Both responses promised that the organization's June Board of Governors meeting would be devoted to the issues raised by The Post.

On May 10, 2003, three days before McCormick's rejoinder was published, the Post reported that the Conservancy's land deals would be scrutinized by the Senate Finance Committee. In that article, Stephens wrote

Senate Finance Committee members have grown concerned by the appearance that Conservancy officials have dismissed the controversy, without issuing any public statement that the non-profit plans a self-examination. Committee staffers focused in particular on a full-page advertisement published Friday in The Post and paid for by the Conservancy's board (Stephens, "Charity's Land Deals To Be Scrutinized," 2003, A02).

This action signaled that Senators had accepted the frame or narrative offered by the Post team. But the Conservancy had not yet responded in an acceptable fashion.

When the Nature Conservancy's Board announced that it had suspended a number of practices, at about the same time as McCormick's rebuttal appeared, particularly "conservation buyer" real estate transactions, Stephens and Ottoway reported that TNC had suspended "the sale of ecologically sensitive land to its trustees as home sites" (Stephens and Ottoway, "Nature Conservancy Suspends Land Sales," 2003, A03). When the Conservancy attacked the series as containing "mischaracterizations" and lacking context, the Post team wrote in response "even so, the organization plans a detailed review of the programs discussed" (Stephens and Ottoway, "Nature Conservancy Suspends Land Sales," 2003, A03). And when TNC leaders hired outside legal representation, the Post investigative team questioned the cost and whether lawyers

would be paid for with donor contributions (Stephens and Ottoway, “Charity Hiring Lawyers to Try to Prevent Probe,” 2003, A27). The Conservancy did not respond formally to those queries.

These experiences soon convinced top Conservancy leaders that The Post’s writers constituted a formidable foe and one that their organization was unlikely to defeat. Birchard (2005) has argued that TNC’s leaders (President and Board Chair) came to believe that their claims were likely to make little difference to the outcome of this “dialogue.” Some Conservancy trustees, however, maintained that the series had not reached that large an audience and that to legitimate the articles in any way would only make the Conservancy look as if it had done something wrong. However, those board members soon found themselves in the minority as fellow trustee A.D. Correll’s argument that you “Never argue with someone who buys ink by the barrel” held sway with his colleagues (Birchard, 2005, 213). TNC pursued a conciliatory approach as it responded to its critics thereafter.

Having to explain itself and do so in a very public manner was new territory for the Conservancy. Indeed, just a short time before the series appeared, the organization had launched an ad campaign to make the public more aware of its activities. The Conservancy had grown to become one of the largest non-profits in the world on the quiet. As former U.S. Fish and Wildlife Service Director Frank Dunkle once commented, “The conservancy is all action and no talk. While others have been out preaching conservation, they have been practicing it” (Murphy, 1987, 54). Now, however, not only was the Conservancy faced with formulating a strategic response to the Post series’ allegations in a very tight time frame, it had also to communicate that response effectively in that same short span of time.

After much debate, TNC’s governing board decided that the best way to make the public aware of how seriously it took the Post’s charges was to form a high-profile independent governance advisory panel to address them. In addition to making that announcement at its meeting in June 2003, the board terminated or imposed new restrictions on four practices that it had first suspended in May

(<http://nature.org/exclude/print/php>). The Trustees announced:

- A prohibition on buying or selling land to state and national board members, trustees and employees and their immediate families.
- That all charitable gifts associated with a conservation buyer transaction would need to be legally documented as a part of each such deal.
- No loans would be provided to Conservancy employees in the future.
- No new oil and gas drilling or mining of hard rock materials would be permitted on TNC preserves unless required by existing contracts.

However, the board of governors statement left the impression that TNC still felt it was in the right as the Board prefaced each change with a comment that it felt that the Conservancy *had* been doing things properly all along.

Ira Milstein, a recognized leader in the area of corporate governance and an attorney with Weil, Gotshal & Manges, agreed to lead the advisory panel and he quickly made it clear that, in his view, it would take more than just doing things right if TNC was to emerge from the crisis whole (Birchard, 2005, 226). Milstein contended that TNC's practices would not only have to be right, they would have to look right, and smell right. In other words, the organizations' operations would have to be undertaken in a way that would not allow anyone to raise even a hint of an allegation that they were suspect. Milstein attributed TNC's still apparently unapologetic "this is how we do things" attitude partly to pride. And newly installed board of governors' chair, Henry Paulson, Jr., Chairman of the Goldman-Sachs Group, agreed (Birchard, 2005). His experience on Wall Street had led him to believe that the winning strategy in this instance would rest with an aggressive effort to install organizational routines that helped TNC ensure that all it undertook could never again be subject to the sort of investigative foray that had sent it reeling. And it must appear cooperative and penitential as it did so.

Therefore, even before the first findings of the governance advisory panel were released, Paulson launched a strategy of what he dubbed reputational risk management. When the governance advisory panel also suggested the formation of a Conservation Project Review committee that would assess all future projects for any and all potential financial, reputational, legal, and ethical risks, Conservancy staff quickly focused on the question of reputational risk. In fact, the Board embraced this emphasis and asked for and received a memorandum from the staff entitled “Processes for Managing Reputational Risks” (“Report of the Governance Advisory Panel to the Executive Committee and the Board of Governors of The Nature Conservancy,” 2004).

In addition to creating the Conservation Project Review committee, the Conservancy Board hired a compliance officer, created more rigorous conflict-of-interest procedures, developed a thorough review process for managing risks, formalized a “whistle blower” policy and strengthened an independent internal audit function (<http://nature.org/exclude/print/php>). The Conservancy also engineered policies and procedures to allow more active oversight of its state chapters and increased national office communication and relations with state chapter trustees (<http://nature.org/exclude/print/php>). The governance advisory panel took special notice in its final report of the formal relationship between the national headquarters and its various state organizations and highlighted the fact that only the national board exercised governance authority for the organization. This stance was important as most of the alleged problems identified by the Post series involved chapter boards and board members and not the national board of governors per se:

While TNC should continue to promote innovation and entrepreneurship by the chapter boards, the Panel believes that ultimate authority should remain with the Board of Governors and Executive Committee [newly formed], which are responsible for supervising the actions of the chapter boards and reviewing their decisions (“Report of the Governance Advisory Panel to the Executive Committee and the Board of Governors of The Nature Conservancy,” 2004, 13).

The Lasting Effects of the Series

As the series appeared less than two years ago, it is difficult to gauge with assurance the long-term purport of the changes initiated at TNC as a result of The Post's probe. But some implications are obvious. The Conservancy's governance structure was overhauled. The large board of governors was subdivided into six committees with an executive committee comprised of the chairmen of the various standing committees and the chairman, vice chair and secretary of the Board of Governors and the CEO (<http://nature.org/exclude/print/php>). No board member would serve on more than one committee, and each had a very specific scope as evidenced by their titles—strategy, governance, conservation project review, audit, finance, and marketing and philanthropy. The deconstruction of the large and widely perceived as unwieldy board would hopefully create the balance between centralized oversight and decentralized actions that TNC desired (<http://nature.org/exclude/print/php>). As noted above, the organization also underwent something of an attitude adjustment moving from a publicly defensive stance to a considered stance of conciliation and cooperation.

Apart from this very visible change in TNC's public personae, the series appears to have resulted in several notable policy shifts as well. It seems likely, for example, that TNC will not soon launch any large-scale community-based conservation projects, like the one it had develop experimentally on Virginia's Eastern Shore and for which the Post authors roundly criticized it (Ottoway and Stephens, "On Eastern Shore, For-Profit 'Flagship' Hits Shoals," 2003). In any case, and at the least, the Conservancy appears unlikely to repeat such an endeavor until the perceived risks associated with such efforts drop dramatically.

Determining the costs of this retrenchment are difficult as one is led to ask what difference it makes that TNC is not now exploring landscape-scale compatible economic development conservation experiments and wonder what difference that might make for biodiversity.

Other conservation nonprofits, especially land trusts, which rely on easements and complex real estate transactions to do their work, also have been strongly criticized by the Post writers in a number of articles

that have appeared since publication of the original Conservancy series. In December 2003, for example, Stephens and Ottoway offered a harshly critical detailed front-page exploration of the use of conservation easements by a variety of land trusts (Stephens and Ottoway, “Developers Find Payoff in Preservation,” 2003). Meanwhile, a much shorter article positioned in the back pages of the “A” section of the newspaper, presented the positive side of the use of easements for conservation (Ottoway and Stephens, “Land-Trust Boom a Boon for Habitat,” 2003). Congress’s Joint Committee on Taxation recently recommended several important changes in tax incentives for conservation easement donations based at least in part on concerns raised by the two Post writers (<http://www.lta.org/publicpolicy/ppc.htm>).

In addition to affecting nonprofit management and governance practices and reshaping some dimensions of public policy, the Conservancy series lent impetus to moves to tighten accountability standards and to increase scrutiny of governance and demand greater transparency of organizations across the nonprofit sector. The dialogue between government (as representative of the public) and nonprofits over how much oversight is required will continue for some time to come. What role nonprofits themselves will have in shaping this debate is difficult to assess although the current effort of Independent Sector in concert with the Senate Finance Committee suggests that it may enjoy at least some say in any new requirements that may be imposed upon it. The Conservancy’s experience suggests that nonprofits would be wise not to appear defensive but instead to adopt a posture of active penitence and conciliation if they wish truly to influence these potential legal reforms.

Conclusions

In his 2004 book *Media Unlimited*, noted sociologist Todd Gitlin argued that today’s market-centered and often rootless citizens actively seek sharply reductionist visions of the world because the pace of change and of events is otherwise so daunting—even overwhelming. Here is how he put the case in a recent article:

I have argued in my book *Media Unlimited* that moderns resort easily to disposable emotions in order to compensate for the calculating rationality that also becomes routine in the course of their utilitarian existence. There is an emotional underpinning to the cognitive turn recognized by

Lippmann: People rely, *necessarily* rely, on second-hand images— “pictures in their heads,” in Lippmann’s phrase—in order to recognize a world and react to it. To be free is to feel the desire to make sense of the world. Yet media images only provisionally clarify their realities. Despite spasms of sporadic clarity, the world remains opaque. Restive, people live in a blur of stereotypes. The failure of stereotypes to explain the world only intensifies the hunger for different—more intense, more reductive—stereotypes (Gitlin, 2004, 11).

Gitlin argues that media of all stripes has responded to this tension of modern existence between the possibility of transparency and the fact of incomprehensibility with a market-centered nihilism that provides what sells. In this view, if what sells is markedly reductionist, so be it. He also contends that even to do this much, the media must first command attention because attention is ultimately what all forms of media sell to their advertisers. That imperative in turn has led to a new reality:

Indeed, the main thing transmitted by the media today is no longer ideology, but emotion. Ideas have become merely a thin veneer for the packaging of emotion. Emotion has become a mode of being, a kind of second human nature, which poses a strong challenge to the rationalist hopes of democratic theory (Gitlin, 2004, 9).

In our view, and as one might expect if Gitlin’s argument is at all accurate, the Post series presented a reductionist narrative or “picture for its readers heads” of the Conservancy’s mission and strategies in order to provide its readers with a simple set of claims concerning the organization’s rightful role and lack of accountability to its stakeholders and to the general public. We do not argue that TNC was perfect or even that it acted appropriately in all instances. What interests us instead is how the Conservancy, which previously held an enviable standing with the public, came into such negative public salience and why. The Conservancy’s aims and goals were well known before May 2003, and its partnerships strategy had often been lauded. Its efforts to help communities in which it was active to identify forms of economic development compatible with conservation received similar acclaim (Hershberg and Dominis, 1993, Murphy, 1987). The Post series, however, attacked these and on that basis contended that TNC had

betrayed its public trust. The tone of the articles was self-righteous outrage. The pieces packed an emotional wallop as they together, taken at face value, constituted an architectonic tale of deception and betrayal.

The fact that the series created a public policy focusing event placed the Conservancy in a difficult position. If its leaders argued that the articles misled or simplified unduly its actions and the scenarios treated, TNC would appear to be an arrogant and defensive Prince, a role it could ill afford to assume in the narrative to which it had been assigned. So, on the view that “you cannot take on the Washington Post,” its leaders and Board crafted a strategy aimed not at publicizing what they took “the facts” to be but rather at how best to manage its assigned role in the socially constructed drama in which it was now a key participant. Predictably, TNC officials offered to fix and repair what they might, and humbly beseeched policy leaders to work with them to attack the weaknesses and omissions now exposed while trying throughout to maintain that their strategies and mission were sound. This was and remains a high-wire act.

What this episode means for the Conservancy’s capacity to learn and innovate as an organization remains to be seen. It has been forced to admit that strategies it thought vital to accomplishing its mission and that had defined it as an institution are problematic and that its efforts to use those tools are somehow ethically adrift. As it responded to the crisis, TNC also created a complicated risk management structure by which to evaluate possible projects, and these must now not only be legal but must pass the so-called “smell” and “righter than right” tests (Birchard, 2005, 226-227). What that may mean in practice is that a land transaction may be legal and may serve bona fide conservation ends as the institution sees those but if a media representative could construe the project differently, it will not occur. As the costs of this sort of anticipated reactions game are essentially opportunity costs and the balances drawn subtle ones of competing equities, it is difficult to know what the costs for landscape conservation and the ecology may turn out to be. But they likely will be real.

Similarly, accountability for the Conservancy has now been [re]defined as what the series authors argued it should be. Whether that is good or bad may be debated, but it is clear in any case that TNC has now been

assigned a role in a public play and one whose contours and meanings it does not control. It must behave as scripted or face new and quite punitive action from now aroused policy-makers. What is most noteworthy is that the mobilization of those actors was undertaken around a story or what Boyce has called a narrative paradigm with touchstone elements (1995, 5-6). That tale was sharply simplifying as well as bipolar in character. Both the story writ large and its primary building blocks were shaped by an overarching premise and fitted, as so many puzzle pieces, into that conception. The public at large (and its policy-makers) nonetheless accepted the narrative presented as an actionable reflection of empirical reality.

One consequence of this interesting twist is worth reflection. The Washington Post itself chose to assign two reporters to investigate the Conservancy for over a year and then to publish a series of articles that suggested that TNC had willfully misled its stakeholders and the general public alike. The series served as a rallying cry for action to overcome this alleged social harm. All of this is a matter of public record. What is more difficult to understand as this episode has unfolded is who the agents of accountability for the Washington Post may be. If much accountability is socially constructed and this case represents only a more dramatic example of a commonplace, and the media express meaning through emotive and reductionist narrative, who will convey to the general citizenry the subtleties and complexities of action that together constitute reality rather than its simplified and mythologized version? We know now that media outlets can frame myth and narrative powerfully, but while these evoke reality, they are not reality. How then do we ensure that reality itself receives a modicum of attention as we press ahead with ever more shrill popular cries for organizational and democratic accountability?

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