

HENRI MCCLEES, interviewed by Glenn Blackburn on August 3, 2012. Henri was an attorney based in New Bern during the 1980s and 1990s. Today, she lives in Oriental and works primarily as a lobbyist. In the early 1980s, she represented the North Carolina Fisheries Association in the peat mining fight in the Albemarle-Pamlico peninsula. In the mid-1980s, she represented the Coastal Federation in several actions, notably the Hoop Pole Creek permit appeal. (In 1980s news reports, she was known as Henri Johnson. Though already married, she did not change her name from Johnson to McClees until later.)

With regard to how and why she became involved in the peat mining fight, Henri said that in 1982 her husband, Joe McClees, worked for the N. C. Division of Marine Fisheries on economic development issues in the seafood industry. (Joe, she noted, worked for the state from 1976 to 1986, having started with a political appointment under Gov. Jim Hunt.) Joe stopped by Belhaven Fish and Oyster Co. one day in 1982 and spoke with Randy Potter (now deceased). Randy told him about the planned effort to mine peat. Randy saw the danger that peat mining would destroy the wetlands and ruin water quality in the inner waters of North Carolina. Peat mining would have decimated the ecosystems supporting fish, crabs, shrimp, and oysters. Apparently, according to Henri, Randy talked to Joe in great detail and for several hours about how bad it would be for the seafood industry if the peat mining project went forward. Then, Henri said that Joe came back to her law office that night and talked to her about the issue.

Shortly afterward, Joe contacted Ned Delamar, the Executive Director of the N. C. Fisheries Association at the time. (When Ned retired in 1986, Joe became the Executive Director of the Association for a couple of years before he founded McClees Consulting.) Henri said that she and Joe were willing to fight the peat mining issue on behalf of the seafood industry, and they knew that they needed the support and backing of the Fisheries Association. The two of them met with Ned Delamar, who gave them the green light to proceed with the fight with the proviso that they raise the money from the seafood dealers independently of the Association's annual budget. Henri noted that she was just getting her law practice started at that time, so she had to have a source of funds to make a living and support the peat mining fight.

At that time, Joe had numerous contacts with seafood dealers. Blue crabs were plentiful and the crabbing business was lucrative. Joe was helping the dealers plan and build crab processing plants. Henri said that she and Joe were able to unite the seafood dealers up and down the coast of North Carolina. They travelled to meet individual dealers, usually at night or on weekends because Henri had a trial schedule Monday through Friday. They visited seafood dealers in N. C., S. C., VA, and Georgia. (Seafood dealers from other states benefited from the seafood in N. C. waters.) They asked the dealers to participate in the lawsuit to stop peat mining at a cost of \$1000 per business. In the end, they collected \$25,000 and were able to push forward to fight the peat mining permit application. The participation of the dealers was significant, Henri said, because they had legal "standing." Seafood dealers would have been harmed economically if the waters were polluted.

Thus, according to Henri, there was a three-fold approach to fighting the peat mining project: 1.) the Coastal Federation led by Todd Miller; 2.) the N.C. Fisheries Association; and 3.) the N. C. Conservation Council and Bill Holman. The three were working on parallel tracks and cooperating. Henri added that she and Todd worked together to raise public awareness and ensure significant citizen participation in the public meetings required by the permit process. (Her husband, Joe, was still a state employee at that time, so he kept a low profile and did not attend the public meetings.)

Henri said that the most memorable public meeting for her was the one at Lake Mattamuskeet High School in Hyde County. “We filled up the gym with angry commercial fishermen. It was an exciting night, as we put the state folks on the defensive. Virgil Tillett, a N. C. Marine Fisheries officer at the time, called Joe McCles after the meeting and described the scene. He told him Henri got a standing ovation after her speech. Some of the fishermen wanted to know, ‘When is she going to run for sheriff?’ (Apparently, that was the pinnacle of achievement from their point of view.)”

“I developed the narrative to be told on behalf of the N.C. seafood industry.” Henri pointed out that her connection with the McClees family gave her a great deal of knowledge about the fishing industry, so she did not believe the SynFuel argument that there would be “no consequences” from the peat mining. She married Joe McClees in 1980, and today they live on the family farm outside Oriental. She went on: “The family into which I married had given me a perspective in more depth than I would have had otherwise. (I was born and raised in Greenville, N. C., which Joe McClees considers to be “eastern” but not “coastal.”) Before WWII, according to Joe’s father Manson McClees (1911-2000), shrimp were known as “bugs.” They had no commercial value, and only the poorest people considered them edible. The shrimp were so thick in the bays and creeks that they clogged the fishermen’s nets. Only after WWII did shrimp become a commercial crop. Manson McClees, like many others in coastal areas, fished and farmed to make a living. These men knew the waters were essential for their survival. It was not a great leap for commercial fishermen to understand that massive pollution of the creeks and bays, moving into the sounds, would destroy water quality and the shrimp, fish, oysters, and crabs upon which they were dependent.”

Henri pointed out that SynFuels (the driving force behind the peat mining proposal) was well connected politically. They had strong Republican support on the national level in the beginning. They hired Chuck Neely, a Raleigh attorney, to represent them. Neely is now a lobbyist at the General Assembly. She said that as the opponents of peat mining began to be heard in the media and through the permit process, they began to feel some hostility from local politicians. The politicians saw only the possible jobs that might be created by the peat mining project. Henri noted that in those days economic development was defined in terms of jobs, not in terms of lost quality of life or destruction of the environment. An example she cited of the hostility was Rep. Howard Chapin (a Democrat from Beaufort County) who began to gossip that “That woman is shackled up with Joe McClees.” Henri and Joe had married in 1980, but Chapin apparently did not believe they had the benefit of clergy because “I did not change my name to McClees until many years later.” Henri said that Rep. Chapin complained that “Joe McClees works for the Division of Marine Fisheries and is shackled up with that lawyer who is causing all the trouble.” Chapin remained angry about the failure of the project thereafter.

According to Henri, there was overwhelming opposition to the peat mining project in the series of public meetings across coastal North Carolina. However, in Plymouth, NC and Washington County as a whole there was support for the project, because the people there believed they would be the primary beneficiaries from the jobs to be created by the project. The site of the project was to be in Creswell, N. C. in Washington County. She said that even after the peat mining project was defeated, there was some hostility toward her in Washington County. She noted that in those days she occasionally had a big domestic case in Plymouth.

On Todd's role in the peat mining fight, Henri described him as "a one-man dynamo." Most of the fishermen did not know him at all in the beginning, but he gradually became the "face" of the Federation. She continued: "We worked closely, and he worked untold hours on this issue. He had no staff, no money, and no name recognition in the beginning. He had passion and drive, patience and courtesy. He was gentle and shy when speaking. Todd tended to deflect the typical sarcasm and distrust of coastal fishermen. I know it was difficult for him to be rejected repeatedly, but he hid his frustration when necessary. He was not impervious to criticism and rejection, but he was not defeated by it. That generation of fishermen on the coast was facing a new enemy in coastal development. At first, they just wanted everyone to go away and leave them alone. Some still do. However, the more intelligent businessmen realized they needed all the help they could get, including from the environmentalists. The traditional coastal residents did not understand all of what Todd said, and they did not necessarily trust 'environmentalists' in general."

As for how the fishing industry has fared over the years since the peat mining fight, Henri mentioned that recently she and Joe talked with Etles Henries, Jr., a third generation seafood dealer at Carolina Seafood Company in Aurora, N. C. He said that the crab population is down, as are other species in Pamlico Sound. He was pessimistic, but he continues to work because he wants to leave a business for his son who works with him.

Henri continued to work with the Coastal Federation for a few years after the peat mining fight. Among other things, she represented the Federation in the Hoop Pole Creek permit appeal. She said that today she has nothing to remind her of the details of the case, because all of her 1980s files were destroyed when a hurricane came through New Bern and flooded their storage building. However, she did comment that in the mid-1980s the Federation "spearheaded" a movement to force state regulators to apply environmental regulations strictly, and the Hoop Pole Creek case was part of that movement. And, she remembered that a major issue in the case was a proposed marina; the state was just beginning to acknowledge that marinas could be a major source of water pollution.

She added that "... the N. C. state regulators considered Todd and the Coastal Federation to be troublemakers! Todd and the Coastal Federation created a lot of extra work for the regulators, and they resented it. As I think back, the regulators had no concept that the Coastal Federation would become a strong force or that the environmental movement would become an established force in North Carolina politics."

Jim Kennedy was “wonderful” in helping her with the Hoop Pole Creek appeal, Henri said. He was working in the state government in 1985 and was able to provide a lot of insight into the structure of the N. C. Department of Natural Resources and Community Development (now N. C. DENR). He kept her informed about the most up-to-date environmental regulations, which was very important because in those days there was no internet search function and it was almost impossible to find a current copy of the regulations except by traveling to Raleigh and reviewing an office copy by appointment. She said that Jim was careful not to work with them on state time. Jim helped them on nights and weekends. He helped them understand the bureaucracy, the personalities, and the actual procedures necessary to effectively fight the permit. She concluded that “I understood the legal concepts, but needed help from someone who understood the permit process.”

For a short while in the mid-1980s, Henri served as “legal counsel” for the Federation. She said that she, Todd, and Jim would meet and discuss the various issues facing the Federation, but that it was too expensive and time-consuming for the Federation to fight every permit application individually. Their conclusion was that political relief was needed. This is the point, she said, where Bill Holman and the N. C. Conservation Council grew in importance as an ally. The Fisheries Association became less important in the coalition, as Joe McClees stopped working for them around 1987 or 1988 and Henri no longer represented them in any legal proceedings.

On a more general question about the development of environmental law in North Carolina in the last third of the twentieth century, Henri said that legal issues regarding the environment were hot topics among academics in the 1960s and 1970s. She recalled that when Dr. Thomas J. Schoenbaum taught at UNC Law School she took an environmental law class from him in 1976 or 1977. It was a small class, one of the first environmental law courses taught in North Carolina. She said that Schoenbaum assigned the students to do research on various issues that were used in his book, *Islands, Capes, and Sounds*. (The book, she noted, includes a good discussion of the history of the environmental movement and environmental consciousness-raising among North Carolinians, and Chapter 12 gives the political history of the Coastal Area Management Act (CAMA).

By the 1980s, Henri said, there were some individual attorneys who specialized in environmental law, but no environmental law firms. Law firms focused only on environmental matters have developed only recently. Today, there are two kinds of environmental attorneys. 1.) There are those who are committed to environmental causes and only take cases representing the environmental side of issues. 2.) Others have acquired some knowledge of environmental law in law school or gradually in the practice of law and then use their knowledge to take cases on either side of conflicts about environmental issues.

With regard to what are the biggest legal issues in the coastal environment, Henri said that the big underlying issue is always private property rights versus some conception of the common good. Conservative legislators who oppose environmental bills and regulations do not think of themselves as being anti-environment. Rather, they think they are defending property rights. She noted that in the legislature the pendulum always swings back and forth between support for or opposition to environmental causes.

More specifically, the biggest issue in eastern North Carolina will always be wetlands and marshes. “If you ruin your water, you’ve lost everything.” She stressed that everything east of I-95 is a “fragile” environment. North Carolina’s “magnificent estuaries” and coastal wetlands are almost unique on the east coast of the United States. “They are unique in their environmental importance and fragility.” In 1969, the N. C. General Assembly passed the Dredge and Fill Permit Act. With local political will weak and state enforcement ineffectual, environmentalists had to fight for enforcement in federal court. The Coastal Area Management Act (CAMA) was passed in 1974. The legal battles had just begun, as what some called this “governmental intrusion on property rights” was deeply unpopular with property owners and politicians. Today, Henri said, environmental protections have become a part of the landscape for property owners and developers. There is still the need for constant vigilance, as eager land owners and developers may circumvent the rules if possible when large profits are at stake.

In more recent times, the issue of storm water management has been and continues to be a hugely important issue in development projects.

When asked what got the Coastal Federation off to such a good start in the 1980s and why it has become so successful over the years, Henri said: “I believe Todd Miller’s patience, hard work, and single-minded dedication to preserving the coastal environment is the reason for the success of the Coastal Federation. He slowly gathered allies and supporters by his dogged determination to fight destructive development and hostile regulators. Todd Miller networked, gathering allies wherever possible. He accepted whatever contributions a person could make. He showed appreciation for the smallest efforts. He rarely complained or succumbed to self-pity in the early years, when his friends were few and his enemies were powerful. Recently, Joe McClees and I attended the funeral of his dear father, Theodore Miller. From the comments of many family friends, Todd and his siblings inherited from their father a deep love for their coastal home.”

As for what coastal issues need to be focused on in the near future, Henri said that one of the lessons that seems clear during a recession, but is less clear when real estate values skyrocket, is the terrible price that intensive development exacts from the environment. For example, the continued availability of clean water for coastal residents is an issue that must be faced. We are surrounded by water, true. However, our supplies of pure drinking water are finite. The aquifer systems below the land’s surface in N. C. could be depleted if more water is withdrawn than the aquifer systems can renew. Dense coastal development and intense use of water could destroy our drinking water supply.

Finally, on the question of the connection between people’s religious beliefs and their environmental concerns, Henri noted that the American South has traditionally been dominated by conservative Christianity. Some other religions identify nature as a divine force. Jim Kennedy, for example, seemed to be pursuing this idea when she knew him, but she does not agree with this idea. She said that she became a committed Christian in 1985, and it changed her view of her environmental work. Prior to her conversion, she said, she felt that she was doing important moral work when working on environmental litigation. But, after her conversion, her focus changed from saving the environment to saving people. She added that for her there is still a moral imperative to care for what God has created, but that imperative is grounded in religious faith. In her view, we humans are the crown of

creation, but we are responsible for being good stewards of the earth. We do not have absolute ownership of the earth. Rather, we hold and use the earth “in trust.”