



Transcript of Video Interview with Don May re Rim Fay, Pt. 2, recorded 2006.

This interview is part of Earth Alert's Heroes of the Coast video archive, featuring interviews with leading California coastal activists, past and present California Coastal Commissioners and Coastal Commission staff. For more information, visit www.earthalert.org.

Don May on Rim Fay, Pt. 2

JB: Welcome to Heroes of the Coast, the program that brings you the personal stories of the people who have dedicated their lives to protecting the California coast for the rest of us. Hello, I'm Janet Bridgers, executive director of Earth Alert, and we're here with Don May, president of Earthcorps, longtime environmentalist, and we're continuing our reminiscence and documentation of some of the feats of the legendary Rimmon C. Fay, Ph.D., the man we all call Rim, who has been one of the most effective activists and scientists there have ever been in terms of protecting the coast.

Don, welcome back.

DM: I'm delighted to be here and to get a chance to talk more about Rim.

JB: Rim's health does not permit him to be here, and tell his own story and that's why we're telling these stories on his behalf. And where we left off, Don, on Part One, we were talking about Rim's role on San Onofre. And where we left off on the story, he had been elected to the California Coastal Commission after the passage of Prop. 20 that created the California Coastal Commission, and he was one of the commissioners who voted against San Onofre, correct?

DM: Key vote. The key vote, yes.

JB: But they appealed...

DM: They filed a suit that claimed that the testimony was improper. We were not able to get the record, the transcript of the hearing introduced, or any of the statements of the commissioners. The court judge said "well, let them sort it out." He didn't want to deal with it. He sent it back to the same people. He said, "well, they voted that way. Let them do it again."

And what happened was one of the most intense campaigns by Edison, which was probably one of the most powerful political organizations in the state, and got the governor and the Speaker of the House and folks to really make it clear to the Coastal Commission that they would not continue... finish their second year of existence if they did not allow this power plant to come in on the coast. And so they...

JB: So one year after the creation of the Coastal Commission, the governor and et cetera are threatening to shut it down.

DM: Oh absolutely.

JB: On one issue.

DM: On one issue.

JB: Despite the fact that it was passed by an overwhelming margin by the people of California.

DM: That's exactly right. And it was a terrible time. The commission, even though they would serve out their five years of existence under the Coastal Act, if the legislature didn't give them any funds for staff, for paying the rent to hold hearings, and that sort of thing, they would not be able to exist. Their offices, they had five regional offices, as well as the state office, requires a budget. Still does. And it's money well spent by anyone's estimation for what the Coastal Commission has been able to do this past 40 years in protecting the coastline, protecting the natural resources. And Rim was a very very key part of providing the scientific basis for developing one of the things that they had to do within the five years before it sunseted out in '76 was to produce a plan for the California coast. They did that! First time that I have ever seen that an agency ever finished its job on time, not only within budget, but with money left over.

Unfortunately, the legislature did not see fit to use that plan once it was... But the commission has continued, and the regulatory authority, which is, of course, is what everyone was concerned with, not the plan on how the coast was used. So Rim played a...5000 permits a month they processed for those years, and that's a huge amount. And a lot of them were small, but there were some big ones. Rim helped us defeat several liquid natural gas (LNG) plants, and now, here we are going through it all over again in California. He was the one that lead the opposition to desalination, and a whole lot of other things, as well as nuclear power.

JB: Let's take a break here, though, for a minute. I want to offer our viewers a little bit of a light hearted anecdote that you told me when we finished the last show. Rim was also involved in some entertainment-related depictions of the coast, okay?

DM: Rim is Steinbeck's Doc, from Cannery Row, whose real name was Ed Ricketts, was Rim's stereotype. Doc had Western Biological, a biological supply house. Rim had Pacific Biomarine. They looked a lot alike, and certainly Ed Ricketts was a conservationist of the day. So when MGM got around to making a film, Cannery Row, they picked Rim as a consultant and he made the auqueria (sp?) for the set and all of that. And he called me up one day out of the blue. He said, "Don, go buy a Wildflour Pizza in Santa Monica. Pick up two pizzas, just exactly like this, and bring them up to lunch. It's worth your while. Trust me."

So I do and I get waved past the front gate and back to the lot, and down at the end, here's this set. And here's this set is Monterey Bay, with the pier that goes out, and Rim's sitting at the end with Rachael Welsh, who was the lead, dangling her feet in the water, and it turns out Wildflour Pizza is her favorite.

JB: He'd asked, huh?

DM: Yeah. "I'll have it delivered. I know someone who would be delighted to deliver that." And, of course, he was quite right. Rachael, as it turns out, of course, and they had to replace her by....well, I've forgotten what the other...

JB: Doesn't matter.

DM: Doesn't matter. She's a very outspoken woman and just an absolute delight and Rim was clearly delighted to...

JB: And he consulted on some other, did he not, on some other movies that were made along the coast?

DM: Anything you do something like *Old Man and the Sea*, you had to pick Rim. He was not only the guy with all the scrambled eggs, the ribbons and degrees, but the guy who really did know where everything was, and everything was going on on the coast. We used to do fundraisers down at the Malibu Colony with guys like Bob Wise, who was a well-known director of his time, beautiful home down on Broad Beach. So we'd have all the folks there, and Rim arrives, of course, by sea, that is he takes his boat up, anchors it off shore, and swims to the party. And comes in dripping wet in his wet suit, and with all these Hollywood glitterati. He did a lot of things like that.

JB: It is worth saying that Rim was just about the most...is...continued, still the most unpretentious, highly educated, literate, well-spoken person I've ever met.

DM: But he loved a good joke, too. We were locked in struggle with the L.A. Sanitation District over their practice of dumping sludge in the ocean. And DDT. And somehow we came up with the idea, he said, "you know, if we collected all the fish heads from all the fishing boats and ground them up and did an extract, we could see where the fish were caught, and what kind of fish, and what time of day, and get a whole lot of really important data."

And, of course, the sports fishing guys were really into this and in nothing flat, we had truckloads of fish heads that were all properly tagged with where they'd come from, what boat, whereabouts. And we're going to reduce them down, mince all these old fish heads and put them in Rim's little sterile buckets that we'd have as Pacific Biomarine has taken over. And the County, of course, was pretty nervous about all of this and said, "well, will you share the data?" And we said, "well, I'll tell you what. If you want, we'll give you splits. We'll take each thing. We'll split it in half. You analyze half. And we'll analyze half and we'll compare the data, right."

Well, we had a time at Rim's, as you might imagine, with going in and mincing all these fish heads, fish brains, and putting them around. Finally the big day came, and we went into the County San headquarters, and we said, "did you...do you have your data for all of this study?" And they said, "yeah, here it is." And Rim said, "well, we didn't have the money to run it."

So I don't know how much money they spent. It as a lot of money in those days for analyzing thousands of these fish heads, and it was heavily used in the lawsuit against County San to get 'em disconnected from Montrose Chemical.

JB: Now talking about Sanitation Districts and the whole process that occurred in the mid-80s that we now know has been rather successfully, reasonably successfully resolved with the new sewage treatment plant. There was a whole process that happened in Ventura County that I want you to talk about.

DM: Well, Ventura was the shoot-out. What happened was that it was L.A. County San that when the Clean Water Act was passed in 1970, or the end of that when we were at them to go to full secondary treatment, to actually treat sewage discharge, than just chewing it and shooting it out into the ocean, to actually remove all the bad stuff and to treat it. Secondary treatment, as it's called.

County San applied for and got an exemption, Section H, of 301, 301H waivers that said under certain conditions, you wouldn't have to do this. And lead by County San, sanitation districts all over the country got these waivers, applied for and got the waivers.

JB: What year?

DM: This was late 70s. No, it was as early as... gee whiz, in 1970ish, about 1970. And one of those... well, nationwide, NRDC and the River Keeper and a lot of big green organizations had been fighting this. Boston Harbor is a classic, huge fight over their 301H waiver. NRDC lost and the waiver was upheld. And so we said, "well, you know we're about to head into a fight with the City of Los Angeles over the Hyperion Treatment Plant, and there's this little city of Oxnard that also... And theirs, they were already at full secondary. They were using... they were already treating their sewage.

And they looked around at everybody else and said, "we want to apply for a waiver, too. We'll save all this money if we can do like Los Angeles and Boston and all the rest of them."

So, we played a little bit of trick on them. I had a lawyer who knew absolutely nothing about the Clean Water Act or section 301, but owed me a favor. And so we hired him to represent us in this thing. And we were in front of an administrative law judge, which can be whatever they want. It doesn't have to be a formal court proceeding. Michael Brush, his name was, got into a "luffing" match with the young lady who was the attorney for the sanitation district. And they'd have lunch together and talk about the case and all the rest. It had absolutely nothing whatsoever to do with what was going on.

We had Rim. And Rim went through... and we talked about Brock Bernstein, too, one of the folks who never worked again because he testified for us. But we put together a really solid case to show that when Oxnard started discharging, the adverse impact on the ocean. When they went to full secondary, how the ocean cleaned up and then a projection of what would happen again. And if you have to preserve the existing indigenous species, whatever that might mean biologically, we were really laying for them. And Michael and young lady who was the attorney representing Oxnard smiled and came in front of the judge. And the judge says... Rim just tore them apart. The judge ruled—denied—their 301h waiver, and wrote, based on Rim's documentation, a really great opinion. And based on that, we started winning 301h waivers all over the country, starting in Los Angeles. Boston got its waiver reversed and denied. It was

really a huge thing, because we found one bought who couldn't be bought, and was willing to assemble the date and show exactly...

JB: I'd like to mention again that Rim was a lifeguard for 50 years. And why I want to mention it here, too, was that back in those days, in the mid-80s, we were seeing studies where lifeguards were coming up with cancer at just appalling rates, horrifying rates.

DM: Pico Kenter Drain. There was one particular lifeguard station that no one wanted to be assigned to because everybody that went to work there came down with cancer. And, you know, this is just coincidental, but nobody wanted to work there. And pretty soon, Rim said, "something's going on here. It isn't just coincidence," and started looking at the water, and found out, of course...and it brought about a second thing, because up until that time, we had all thought that the big problem was all the sewage discharge. And Rim brought it to our attention that storm drains also carry a horrible toxic load out. And the Pico Kenter storm drain, which is right where this lifeguard station is, happens to be one of the most toxic reaches, runoff coming in. And Rim was able to show the direct connection between the discharge from the storm drain and the people that were getting cancer out front. It was a huge thing that Heal the Bay has relied on ever since for their rather successful...it has lead to TMDLs and sousumps (sp?) and all these regulations now that we have to control surface runoffs.

JB: Which is major. And finally, we have an effort on that drain to process that storm water, right? That's really the first one in L.A. County?

DM: Well, they're pretty much doing it at the same time all over, and somebody would have figured it out sooner or later that it's not safe to swim in the ocean within four days of a rain storm, and never go swimming right in front of these storm drains, particularly in an urban area. But Rim happened to be the one that figured it out first.

And a more important thing, everybody else was beholden to the large developers on shore. And Rim, being an old diver, said every time I come to the surface out in the Santa Monica Bay and look back toward the beach, all I can see is 14 million anal sphincters looking at me.

JB: Okay, we're going to move right along from that joke.

DM: It's not a joke. This is the truth.

JB: Well, there was, at that time in the 80s, it was something like the fifth largest river in California was the river of sewage coming out of the City of Los Angeles.

DM: That's correct.

JB: So the denial of the 301h waiver to the City of Los Angeles then stimulated the bond election that created...

DM: Full secondary treatment.

JB: the new sewage treatment plant, and fortunately, it's been much cleaner ever since.

DM: It has. In fact, virtually immediately, of course, the water column cleared up and fish started to come back. We still have a problem with contaminated sediments out there and Rim's work back in the 60s and 70s on contaminated sediments is still quoted today and we still haven't solved the problem. Here it is 40 years later and we've still got the same problem. Right as we speak, one of the issues that came up is that they just discovered that at the mouth of the L.A. River, 500,000 cubic yards of sandbar under the Queen's Way Bridge is so contaminated that nothing can survive. They have a test for biohazard, and if 95 percent of the fish you put in water that's stirred up with this contaminant, if 95 percent don't survive, it's called toxic. And there's .5 percent that survive the sandbar.

So it's the same problem. We still haven't solved it, but Rim's data and Rim's cognition that what flows off the streets and into the ocean is killing things out there, has led to a lot of lawsuits. And a lot of it got into the Clean Water Act because of things that folks like, not only Rim, but Rim and others put back in the late 60s in to get the Clean Water Act passed.

The other thing that he suggested, too, is looking at...this happens over and over again...say, at Hyperion, where, with the Ocean Fish Protective Association was so concerned about...

JB: Hyperion is the sewage treatment plant.

DM: For the City of Los Angeles. And in the 50s, based on the obvious problems, and this was Rim's father in the fight that got the secondary treatment facility in the United States built at Hyperion, handled 100 million gallons a day. Well, by the early 60s, when I was first really doing things with Rim, they'd really gone way past that. They had 120, 150, 200, 400, 500 million gallons. Well, that means you're only treating 20 percent of it. And what do you know, the problems all came back and here we go again, and this time they're asking for a waiver to not...got a waiver to not have to go to full secondary and only partial secondary.

So Rim said, "you know, we go through this cycle over and over again. It's really the wrong way. You've got to treat it up at the beginning. You've got to take the water before it gets contaminated with all the industrial stuff, when it's just domestic waste, clear up in the San Fernando Valley, and catch it up there, catch it on the outskirts and build tertiary treatment plants that will scrub it up to potable water quality and send the bad stuff down to Hyperion.

Well, that's what's been done with the treatment plants up at the Kellman (sp?)...and that's another thing I have to say. It's always the guys who fight the hardest to stop environmental laws, or work the hardest to get exemptions, they're always the ones that the parks get named after.

JB: Well, this brings up the May maxim, you know. Do you know what the May maxim is? We quote it all the time.

DM: What's this?

JB: You can do the work or you can get the credit.

DM: That's right. That's exactly right. That's exactly right.

JB: Named after you, Don May, who first introduced us to the May Maxim.

DM: Well, it's the case.

JB: Well, we're here to create a little bit of public record who did the work, and that was Rimmon C. Fay, Ph.D. We just have a few minutes left. It's been another swift half hour. Do you have a short story you'd like to tell us?

DM: A short one?

JB: How about the 30th anniversary of the Coastal Commission?

DM: You know all of us have a different remembrance of who did what back in the Prop. 20 days, when we were fighting to get a Coastal Act, back in 1970. But I think that all of us who were doing the campaign in L.A. County remember Rim and his dissertations on the beach. Pacific Biomarine was a great place to bring school kids because you'd have all these tanks full and Rim would explain where they came from and introduce you to this critter on a first name basis. "This is what he does for a living. He lives here. And this is how he earns his food and how he disposes his waste and how he fits in and how it all works together." Kids would come out, and not just kids, of course. You'd take the city councilmen, and the assembly men and senators out there and show them from Rim's view point of how the world all works together and why it is that the things you're doing on development out here on the coast is having such a terrible impact on his ocean out there.

Rim, despite all of his awards and that, was always a very humble guy. And when he'd be introduced at some of these hearings and such, he'd always say, "you know I'm just a simple fisherman and spend my time out on the ocean, but if you're going to restore an estuary, don't you think you should get it a little closer to the ocean?" It would be some simple thing that everybody would say, "of course!" Why was it so clear to him and why didn't everybody see that?

JB: Why didn't everybody see that? Well, he did have the blessing of having grown up on the ocean, in the ocean, a father who understood, and then had the great benefit of many years of higher education studying the ocean. And he gave that.

DM: But we didn't have you, Janet, and a video camera to take this story to the world.

JB: Viewers, thank you very much for visiting with us and hearing the stories of another one of the Heroes of the Coast, Rimmon C. Fay. Don, thank you again for joining us.

DM: A real delight.

JB: You'll see a web address and email address at the end of this, and we'll be happy to respond to any questions. And thank you again for joining us.

[end of interview]

28 min.