From Conflict to Collaboration: Restoring Trust in Government

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Although Thomas Jefferson never set foot in what is now Laramie or Cheyenne, or Billings or Bismarck, in a sense he has had a great deal to do with the development of the indomitable character that typifies the West. Not just because he was the motivating force behind the Louisiana Purchase, a move that was roundly criticized by the Federalist Party of the day as "risking national bankruptcy to buy a desert." Nor because the first ambassador to this region was a hand-picked Jefferson protégé in Meriwether Lewis, and that the two of them planned the most famous expedition in American history with the enthusiasm of school boys anticipating their first overnight camping trip.

It is because the Jeffersonian notion of Democracy, or more specifically what he referred to as the "republican tradition" (with a lower case "r") seems to have become deeply rooted here in the rugged terrain of the West. Jefferson maintained a bedrock belief that the success of our grand experiment lies in nurturing a deep civic responsibility in the individual. Motivated citizens armed with the proper education, tools and encouragement, he believed, would be able to rise above their selfish interests and engage each other directly in pursuit of the common good. The kind of Democracy envisioned by Jefferson contrasted fundamentally with the stronger, more centralized and bureaucratic government propounded by Alexander Hamilton, which relied on the mechanics of government to balance competing interests and impose solutions with little citizen involvement.

Jefferson also believed that periodic revolutions were healthy and inevitable. Referring to an uprising of debtor farmers against their city-dwelling creditors in 1787, known as "Shays Rebellion," Jefferson lamented that at this rate we would average only one rebellion in each state every century and a half. "No country should be so long without one," he wrote to Madison.

What I would like to discuss with you today is a revolution of sorts. Not the type advocated by the militia movement, but a quieter and potentially much more profound one, borne of seeds planted by Thomas Jefferson in our country's soil more than two hundred years ago. Like every revolution there are causes, in this case, a steady erosion of confidence in our basic institutions of government, especially at the Federal level. According to a New York Times/CBS poll first taken the last year of the Kennedy administration, 63 per cent of Americans said they trusted the Federal government to do the right thing; last March it was down to 15 per cent. The decline has been erratic but steady for over three decades.

Clearly, many feel this trust has eroded for good and sufficient reasons. The famous scandals, the abuses of power stand out like grim tombstones in our recent history. Attach the suffix "gate" to any word and we all know what it means. Our government has lied to us about all kinds of things - starting with the depiction of success in the Vietnam war, accelerating through the cover ups in the Watergate break in and continuing today with the recent allegations about the FBI cooking evidence and the CIA and its knowledge of poisonous gases in operation Desert Storm. The problem is, in a democracy, unless the people place some minimum degree of trust in their governmental institutions, the society won't work. To me, this is the central, ugly fact confronting public administration in the United States today. The more mistrust by the public, the less effective government becomes at delivering what people want and expect from their government. The mistrust itself causes
government bureaucrats to respond arbitrarily toward the citizens they are expected to serve; and the more ineffective and unresponsive government becomes, the more people mistrust it, and so on, down and down. If this spiral continues to swirl downward, either the laws will cease to be administered, or administered more arbitrarily and our country will become less of a beacon to which all others will seek to repair.

To avoid this dark fate, our country must generate a renaissance of trust, so that the government, at all levels, is no longer them but us, as it ought to be in a democracy. I think this can be done. What I'm here to tell you about this afternoon is that a quiet revolution has already begun, remarkably enough in a region of the country better known for its rugged individualism than its cooperation, and in the area that has historically been at the very center of mistrust: environmental protection and natural resource management. That's the good news. The catch is that the restoration of trust is going to require some profound changes in the way that governments, businesses, public interest groups, individuals and even this university conduct themselves. 

Before we get to the solution, it is worth remarking on a few trends which have brought us to this point:

- The first is that many of our environment and natural resource problems can no longer be laid at the feet of major industrial sources of pollution, or addressed by simply passing another stringent law or regulation. Some of the most significant remaining threats to our domestic environment lie in the habits and livelihoods of we ordinary Americans: we like to drive big, powerful cars and trucks, use a lot of electricity, generate a lot of waste, enjoy cheap food, and fertilize our fields and lawns. In most places, improvement will come only by reducing pollution from farms, suburban developments and abandoned mines, and curbing automobile emissions in major urban centers such as Denver.

- A second trend is in the area of information. A well-informed electorate, noted Jefferson in 1820, is our best defense against tyranny. Even a visionary such as Jefferson could not have imagined the explosion of information available to the public in recent years through the world wide web, hundreds of cable channels providing coverage of everything from town council meetings to the deliberations of the U.S. Senate, and high tech tools such as the global information system capable of graphically illustrating trends in the topography of the places where we live and work. These technologies are wresting control of information away from large central bureaucracies, and making it available to the average citizen.

- A final trend is toward a more diffused approach to environmental protection and natural resource management where states and localities are gradually assuming more responsibility for addressing local and
regional problems. This trend has been accelerated by greatly increased capacity at the state and local level, and by the nature of the problem. Centralized command and control regulation does not work as well when the battle lines are less clear cut. The choices today are often not between black hat polluters and white hat protectors of the environment, especially when the polluters are far more numerous, including perhaps most of the citizenry. For many types of non-point source pollution, (urban and farm runoff, for example) this is exactly the case. As states and localities step to the forefront, they tend to employ a wide array of new, non-regulatory tools, which often provide information, technical assistance and incentives rather than relying on a stick.

These trends, a shift in focus to more locally-based non-point source pollution and ecosystem protection, citizen access to enormous amounts of information, and more leadership from the state and local level, have created the conditions for a new approach to problem solving. This approach departs sharply from the politics of confrontation or courtroom theatre and instead relies on a resurgence of Jefferson's brand of "republican principles," "civic virtue," and the resulting collaborative decision making processes. That process entails a disciplined involvement of all parties interested in the outcome of a decision coming together under the aegis of a facilitator and together working toward a consensus solution. It is often hard, frustrating work and it almost always takes more time than contemplated at the outset. But the process has great promise for our beleaguered democracy.

No less an authority on citizen participation than John Gardiner, former Secretary of Health, Education and Welfare in the Kennedy administration and founder of Common Cause recently stated, "With all due respect to the ancient arts of law and diplomacy, the recent development of systematic, teachable techniques for getting at the roots of conflict, and engaging multiple parties in disciplined and voluntary collaborative problem solving, represents something new in the 5,000 years of recorded history."

Strictly speaking, of course, the collaborative approach is not new but arises from something deep within the American grain. We have never conceived our nation as consisting only of the People and the State. We are a densely civic society and have been since the days when De Tocqueville observed that no sooner had five Americans gathered together than they had hatched a plan for some civic improvement. It has taken some time, but the same social impetus that gave us our parks and museums and other local improvements has now been directed at issues that once were the exclusive province of technically-trained government experts.

Daniel Kemmis, the former Mayor of Missoula, Montana and Director of the Center for Rocky Mountain West has written eloquently on this topic. He says "This kind of citizenship recaptures the very essence of democracy; it makes government far less a matter of bureaucracy, far more a matter of the direct exercise of citizen competence. But as people and (corporations) experience what it is to be the government, that government itself gains legitimacy and strength ... This is not simply the government’s problem, nor can the government solve it by itself. The solution must be sought on the level of citizenship." He concludes by saying that a "healthy, calmly self-confident government can only be developed by turning adversary factions and interests into problem-solving citizens."

Businesses, governments, and citizens, frustrated by years of litigation and stalemate, have begun to turn to these processes, sometimes out of desperation, but more frequently out of hope. Hope that the decisions they yield will be less controversial and more durable. Hope that jointly designed decisions will be better and more informed decisions. And hope that stakeholder processes could actually help to regenerate public confidence in our institutions, including both government and business. The West seems to be spontaneously turning to this sort of process, probably because it is in the small timber, ranching, and mining communities of the West that the conflicts between livelihood and environmental protection seem particularly sharp.

A good example comes from my home State of Washington. During the time that Federal authorities were building up to the current gridlock over old-growth forests and the spotted owl in the national forests, the state Department of Natural Resources was working with concerned citizens to defuse the issue with regard to the extensive state-owned forests on the Olympic Peninsula. It set up a Commission on Old Growth Alternatives, consisting of 33 knowledgeable citizens drawn from conservation and wildlife interests, the timber industry, the
Peninsula communities, Indian tribes, as well as legislative leaders and experts in economics, forestry and the law.

Formally, it was chartered to make recommendations that would provide three things: reasonable revenue flows from public timber to the schools as required by state law; ecological diversity and the availability of wildlife habitat, especially for rare or endangered species; and an adequate supply of timber from these lands to local industry.

The Commission was not an advisory group, nor was it strictly speaking a forum for negotiation, nor was it in a hurry. The point of the Commission was to allow a group of concerned people to absorb a considerable quantity of information, to discuss that information in a non-adversarial setting, and to develop original solutions outside the usual polarities.

The Commission on Old Growth Alternatives met for nine months, the first four months of which were devoted to taking in information from technical experts. As a result of this information, the Commission reached a remarkable and unprecedented consensus on a set of recommendations including the creation of a 260,000-acre experimental forest on Olympic Peninsula state trust land to explore techniques for producing a level of timber harvest comparable to contemporary practices while retaining many of the ecological values typical of old growth forests. They also recommended the deferral of cutting for 15 years on 15,000 acres of old growth timber identified by biologists as critical to spotted owls.

The work of the Old Growth Commission shows that when concerned citizens take the time to master an issue, when they are able to conduct their deliberations outside the courts or the political fishbowl, they can learn to speak a common language and come up with creative solutions for problems that appear to be frozen in a perpetual contention between narrow interests.

In 1984, while I was at EPA for the second time, we confronted a similar situation in Tacoma, Washington, where the problem had to do with community complaints about a smelter emitting toxic fumes and the statutory requirements for EPA to act. The community was sorely divided and largely ignorant of the complex scientific and economic issues involved, which did nothing to reduce the intensity of the controversy. We began a process of community involvement. With technical help from EPA, the community was able to educate itself, and they found that they did not, in fact, have to choose between jobs and health. A panel of citizens developed a plan that would have allowed the smelter to continue its operations in a safer way. Buttons sprang up all over the town saying "Both...jobs and a clean environment." In this exercise, I was struck by the ability of local groups not only to drive to consensus on complex issues, but to invent solutions that had simply not been thought of by the "experts" while combat was in full swing.

Closer to Wyoming is the case of the Clark Fork Basin Project in Montana. The central issue here was the preservation of in-stream flows. Adequate flow is what keeps prized fish like trout alive, and what keeps the freshwater ecosystem that supports fish intact during dry years in the face of withdrawals for agricultural irrigation. To make things even more interesting, the river basin itself was a superfund site.

The essential problem was, that under Montana law, flow is doled out through so-called water reservations, each of which had always been a hotly contested legal procedure, with farmers and ranchers on one side and environmentalists and sports fishermen on the other. These battles were exhausting and tended to benefit lawyers rather than farmers or fish. Seven years ago, the Northern Lights Foundation helped organize the Clark Fork Basin Committee, comprising representatives of both sides in the traditional combat. Somewhat to its own surprise, the committee managed to hammer out an agreement that suspended legal disputes for four years. During this cease-fire, the parties agreed they would work together on a basin plan that would resolve the outstanding in-stream-flow issues in its various rivers. The Montana legislature approved the idea and the committee became a state-chartered commission. Last year, the commission issued a set of recommendations that included allowing farmers with water rights to lease their water to organizations desiring increased in-stream flow for fish, a remarkable and unprecedented solution. The recommendations were incorporated into
statute by the Montana legislature. Notice the legislature was active at the beginning and end of the process - a key ingredient for success.

Collaborative decision-making, processes are now widely distributed in the west. By one count, over sixty basin or watershed efforts are now under way in the Colorado River drainage alone.

It is essential to understand that each of these efforts is unique to the problems, the locale, even the personalities involved. This approach is absolutely not something you can stamp out with a cookie cutter. Nevertheless, even at this preliminary stage, it is possible to derive some general lessons about how to set up a successful collaborative project.

First, every important stakeholder must be brought in at the very start of the process. Everyone has to be in the boat rowing. You can't leave anyone on shore, because those are the people most apt to heave rocks as the boat goes by. When you include all interests you almost guarantee that the results will transcend the sterile posturing of single-interest politics, and that people will learn the habit of listening before passing judgment. Involvement has to be early because, remember, you're operating in an atmosphere of deep distrust. No one wants to feel co-opted by some prior set of assumptions or decisions. The very point of the process is that everyone gets to see the cards dealt, everyone gets to kick the tires on the technical issues.

Second, it is best if the relevant governmental authority signals in unambiguous terms, that the process is the only game in town, and that what comes out of the process will likely prevail as public policy. This is essential in order to get former opponents around the same table to work together in good faith. If one or another party thinks it can get another bite at the apple in some other forum, they will hold back from the full cooperation necessary for success. Let me note here that these processes are utterly different from the typical public meeting or hearing, where people state their positions and afterward are under no obligation to listen to any opposing statements. In cooperative processes you have to listen to the other side. It's where people learn that the right to be heard is not the same thing as the right to be heeded.

Third, you need professional facilitation and access to extensive technical advice. We've learned that ordinary citizens have an amazing ability to filter through scientific information that may contain contradictions and come up with reasonable findings. Now, here's a somewhat subtle point about the involvement of government agencies in providing technical support or facilitating these processes. I said you need the backing of government in these things, and you do, but while government can initiate and participate in such processes, it is probably best for the actual cooperative decision-making group to operate under the auspices of a non-governmental, demonstrably neutral, organization. Government's most helpful role is that of an arena setter such as the legislature in Montana. The point, after all, is that lots of people don't trust the government.

Fourth, you have to confront economics in some detail. What you don't want is a trivial feel-good agreement on vague principles that leads to no action. Make no mistake; these processes are ultimately about who gets what. Their real genius lies in discovering that often different sides can each get what they need, that the pie can be artfully baked so as to be bigger than we thought. This is known in the facilitation business as going from OR to AND. We stop saying fish or irrigation, jobs or wildlife and we start saying fish and irrigation, jobs and wildlife. From that change, everything else flows.

Finally, such a process must have as its goal some deep and permanent solution. It must, in the words of Donald Snow of the Northern Lights Institute "break through the shallow facade of rhetoric and reach to the heart of the issue." Only then, when people are united, despite their differences by hard-earned trust, does the astounding political power of such a process become effective.

Having said all that, I should emphasize that cooperative decision-making processes are by no means panaceas for every environmental problem. They are extremely difficult to bring off, frustrating to participate in, often lengthy and grueling for their members, and they can easily fail. They can fail, for example, when short-term economic interests overwhelm all other factors. Regional landuse planning efforts that call for some property owners to be deprived of a significant fraction of the value of their holdings with no compensation are
in this class. They can fail also, as I suggested, when one advocacy group believes it can get more in some other place than it can in the cooperative process. This happened, for example, when Washington State attempted to extend the forestry commission process I mentioned earlier to the entire state. It was, unfortunately, an election year and one interest group thought it could get a better deal from the incoming administration, so the effort collapsed.

And we should also remember that this movement toward cooperative decision-making is growing in poisoned soil. Throughout the nation, among the national environmental groups and industry associations, there are talented, dedicated people who have been trained in a tradition of combat, accustomed to fight for total victory in pursuit of deeply-held beliefs. They will not easily yield their historic leadership founded on a warrior image or work in good faith with traditional enemies. Does this mean that cooperative efforts are doomed? No, for ultimately, in my view, American pragmatism will prevail. If cooperative processes are seen to work over the long run, if they really free us from the tyranny of the either-or, if neither side feels co-opted, if they continue to yield creative solutions that allow the extraction of livelihood from natural resources, while at the same time preserving environmental values, then will establish a permanent, even pre- eminent place among our civic institutional arrangements.

There are a number of steps that government, businesses, citizen groups, and those of us here at the University of Wyoming, can take to assure that these processes continue to flourish - first, the government. Federal and state officials need to have enough confidence to "let go," within certain limits of course, and allow the participants the freedom to define their goals and the scope of their recommendations. As already noted, they need to make it clear they will be receptive to recommendations, and provide technical information and assistance to make sure that recommendations are indeed fact-based. Perhaps most importantly, they need to ratify or at least use the results of the collaborative decisions. This, more than anything, will reinforce the true utility of a cooperative approach among a host of affected interests.

If states are using a non-regulatory "carrot" approach, it is sometimes necessary for someone to be carrying the stick, or the threat of conventional regulation. Already, some parts of the federal government are saying to parties in contention over proposed regulatory efforts, "if you don't want us feds stomping through your garden, settle your differences and make a recommendation." This can provide a strong incentive to reach consensus.

Businesses also have a critical role to play. For starters, they can decide to give up the chance to win it all by convincing the government to rule in their favor, and opt to participate honestly and in good faith in a cooperative process. It would be naive to expect businesses, who by law and nature are responsible to shareholders, to do this out of anything but self-interest. They won't, or not often enough to matter. But a candid assessment of the costs of confrontation and endless litigation may lead many businesses to experiment. Businesses, and public interest groups who make the same choice, may along the way find themselves transformed, as Daniel Kemmis says, by "assuming the mantle of citizenship." Instead of appearing as adversaries before a neutral third party decision maker, they in effect chose to make the decision themselves by solving the [problem] collaboratively. Businesses that have gone this route have found that cooperation can offer some tangible benefits which can ultimately be realized in the bottom line. For businesses, cooperating in good faith also means opening their books and allowing the community to see for itself that progress is being made: a variation on the theme of "trust, but verify."

But aside from the usual suspects of government, industry, citizen groups and each of us as individuals, I believe there may be a significant, even a central role for American universities in fostering cooperative decision-making processes. When you think about this, it is not much of a stretch. Land grant universities such as the University of Wyoming were borne out of a tradition of helping citizens solve their problems and achieve their goals, usually associated with improving agricultural practices, ranching, mining or the like. Needless to say, the world has grown more complex since the early days of land grant colleges. The board members of the Institute for Environment and Natural Resources here at the University of Wyoming got a first hand taste of this complexity when we looked into the problem of nitrate contamination of the water supply in the town of Torrington in southeast Wyoming. It is no longer sufficient to advise farmers on the optimal levels of fertilizer
and pest controls to maximize crop production. The town and the surrounding areas needed access to an encyclopedia of information to help make an informed decision of how best to protect the water supply without savaging the local economy. What are the sources of contamination and how extensive is it? What are the health effects? What agricultural practices can reduce the contamination? What filtration technologies exist and what are the costs? Universities tend to be good at finding the answer to these technical questions, either working independently or in conjunction with local, state or federal governments. We have already discussed the critical role of information in empowering citizens and generating durable, fact-based decisions. Where is there more concentrated information, more access to innovative technology and technical support than a university? A university committed to assuring the success of cooperative processes could bring an enormous wealth of support and relevant information to the table.

Putting the University in the role of helping citizens solve thorny, often bitterly contentious problems, requires more than relying on interdisciplinary skills, as useful as they are. It also requires a commitment to facilitation and to creating an environment where stakeholders can interact comfortably, in an open and honest forum where multiple perspectives are not only welcome but sought. The Institute for Environment and Natural Resources, with the leadership, strong and consistent support of President Terry Roark, has already begun to take important steps in this direction. He has projected a vision for the Institute whereby it would, in his words, help renew the relevancy of land grant institutions by restoring them to their original mission - helping citizens solve problems. In this view, the university of the twenty first century would not just be educating the citizens of our future, providing extension services, or publishing scholarly journals and contributing to the collective knowledge of mankind - certainly tasks enough - but applying this knowledge to help resolve disputes over watershed protection, or the rapid development of land and the loss of open space, or the spread of brucellosis from bison and elk to cattle. Governor Geringer has already begun to turn to the Institute and the university for help in sorting through these tangled disputes.

I want to underscore an important distinction. Helping citizens discover for themselves a common ground or creative alternative is a very different exercise than attempting to impose your own solution, no matter how brilliant it may be. I don't believe that Dr. Roark, President Dubois or the Governor are suggesting that the university get in the middle of these problems and try to solve them. In some cases this would be a suicide mission for a university, like wandering into the middle of a football game without a helmet, or trying to guard Michael Jordan.

Instead a renewed and relevant university may become a repository for information, skills, and processes necessary to resolve natural resource disputes. Universities are well suited for this. I have noticed that in the deliberations of the institute board, which draws its members from a variety of backgrounds and perspectives, some of whom are traditional adversaries, a more reasoned and calm atmosphere often prevails. It is as if the combatants somehow check their guns at the door, and at least explore the possibility of an alternative where both sides, and ultimately the public, can win. In short, universities can play a vital role in restoring the trust so critical to the workings of a free society.

It is no exaggeration to say that movement towards a more collaborative, inclusive way of addressing environment and natural resource problems may hold the only real hope of releasing us from a self-destructive gridlock. In effect, we are choosing between two very different futures for ourselves and our communities. You don't have to look far to find people who are frustrated or cynical about our political arrangements. Along with the erosion of trust, citizens have lost faith in their ability to influence events and all too often surrender to apathy, or worse, to anger. Involving these people in community building, making them aware that they have a voice and an opinion and it matters is not a cure for all the ills of society, but it is a start. It can begin to transform groups of people struggling with disaffection and despair into communities where energized and optimistic citizens are engaged in shaping their own future. The Volunteer Summit in Philadelphia this week struck many of these same themes. Leaders really do want to help solve society's problems and they are frustrated with the inability of government to do so.
We are beginning to see some encouraging signs of movement in the right direction. At the national level there are indications that the paladins of the adversary approach are exhausted, and, more significantly, that the people are tired of watching the warriors squabbling while important public business goes undone. The aftermath of the recent election suggests to me that the usual promises of the victors to work together across partisan lines are not entirely ritualistic. Some great issues can only be resolved across the lines of party and particular interest. Sometimes it does happen that a window for cooperative progress opens, and that may be one of the messages sent by the electorate in returning a split government to Washington. "We don't much care what you call yourselves just get together and solve these big problems."

There are even signs of a cooperative approach within the Environmental Protection Agency. Recent reports from both the National Science Council and the Commission on Risk Assessment and Risk Management recommend bringing the public into the very earliest stage of the process by which the EPA establishes risk. Over the past half-dozen years the EPA has been working hard to transform its relationship with the states. Instead of focusing on paper compliances with the various program delegations, EPA has shifted substantial resources to collaborative processes to solve high-priority local problems. Recently EPA directed 20% of the budget of its regional offices to go toward addressing local problems. This is an abandonment of EPA's historic one-size-fits-all approach to one that emphasizes joint setting of goals, an increase in public involvement, and a lot more program flexibility than has been the case in the past.

At the state and local levels, we are witnessing the birth of cooperatively based programs from places as diverse as Maine and Montana. In some cases, Governors are providing seed money to get these programs up and running. To mention a few, Maine has taken the approach of training policy makers in the hopes of expanding the use of these processes to the entire region. In North Dakota the public and private sectors have joined forces to create a Consensus Council. And here at the University of Wyoming, the Institute for Environment and Natural Resources organized workshops for ranchers and conservation interests on the Endangered Species Act. These workshops were designed to educate, to encourage a frank exchange of views, and identify positive incentives for the protection of species on private land.

If the trend towards more cooperation and less confrontation continues, we may one day observe an upward virtuous spiral, where trust engenders success and satisfaction with government actions, which in turn creates higher levels of trust and makes government actions either less necessary or easier to accomplish. Here it's important to recall that democracy is not just a way of electing the personnel of government. If that was all it was, there is ample evidence it might not have lasted. Instead, the real virtue of democracy is that it is a school. In it, we learn how to manage the public aspects of our lives, and thus, unlike any other system of government, it is progressive. We can actually get better at it as time goes on. And it is a hard school. When we doze off, as we will inevitably do from time to time, we get a sharp rap on the knuckles. When we pay attention, we earn the gold stars, one of which is the restoration of trust between government and people. Thomas Jefferson once pointed out that if the people appeared not enlightened enough to exercise their control of Government, the solution was not to take away the control but to "inform their discretion by education." The collaborative processes that are springing up around the country are doing just that, giving to large numbers of citizens a new comprehension of the complexity involved in government decisions, out of which has got to come a heightened appreciation of, and tolerance for, the necessary work of government. If these processes work, if they spread, if they become an indispensable part of government at all levels, we may take it as a sign that we, as a people, have moved up a grade in democracy's school. It holds out the hope that, once again, the United States will be ready for self-government and we will continue to show the way for a World hungry for democracy's blessings.