

POLICY ESSAY

COLLABORATION AS A MEANS TO FORMULATING MUTUALLY BENEFICIAL ENVIRONMENTAL POLICY

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In this Policy Essay, United States Senator Mike Crapo discusses the value of local collaboration in the development of mutually beneficial environmental policy. Using two examples of collaborative efforts in Idaho, Senator Crapo argues that policy development through collaboration at the local level is more efficient, avoids litigation, increases access to decision-making, and leads to more stable policy.

I. INTRODUCTION

“Collaboration” is a term used frequently in government, business, academic, and even personal circles. The general meaning is understood by most to be a system of decision-making in which people and groups from opposing sides work together to formulate a plan of action that is acceptable to all involved. Incorporating cooperation and a willingness to assist all parties in achieving their objectives, collaboration forms the basis for principled decision-making and provides a stable framework for a republican government. This Essay argues that the prevailing model of centralized policymaking and dispute resolution through litigation diminishes our capacity to create effective solutions to problems. This centralized model is not only inefficient, but also excludes local citizens from the real decision-making process. Using two examples from the State of Idaho, this Essay will demonstrate how, in the area of environmental regulation and land use, encouraging collaborative efforts by interested parties can be a powerful mechanism for policy development. In one of these cases, the Owyhee Initiative, I have pledged to develop legislation in Congress based on the joint recommendations of groups that previously opposed each other in land use disputes in Idaho. Although the efforts are ongoing and final results not yet determined, Congress should take notice of the efforts of the parties involved in the Owyhee Initiative. If agree-

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ment is reached, Congress should work to pass the resulting legislation. This approach represents an underused model of policy development. Rather than lobbying disinterested federal legislators and regulators, and then later confronting each other in the courts, interested parties are working together at the local level to propose legislation to be passed in Congress.

II. AIR QUALITY IN ADA COUNTY

Under the Clean Air Act, the Environmental Protection Agency (“EPA”) designates certain areas that do not comply with federal air quality standards, known as National Ambient Air Quality Standards (NAAQS), as “non-attainment” areas.¹ Any area designated as a non-attainment area effectively cannot receive federal funding for road projects.² Northern Ada County was first designated a non-attainment area in the 1970s.³ Of concern were particles known as PM-10, inhalable particulates smaller than 10 microns (about one-tenth the size of the tip of a human hair).⁴ Particulate matter can accumulate in the lungs and cause a variety of diseases, especially in children and the elderly.⁵ Studies have linked the particulates, as well as the smaller PM-2.5, to shorter life expectancy and increased susceptibility to asthma and infections.⁶ This pollution also increases the risk of lung cancer.⁷ Although the County had been designated a non-attainment area, Ada County had not exceeded the EPA’s particulate limits since 1991, due to the efforts of local officials and community leaders.⁸

In September 1997, the EPA adopted new standards for particulate matter. The new NAAQS loosened restrictions on PM-10 pollution while adopting stricter standards for PM-2.5.⁹ The stricter PM-2.5 standards were

¹ Clean Air Act of 1970 § 107, 42 U.S.C. § 7407 (2000).

² *Id.* § 179. See also Craig Quintana, *Clean-Air Agreement May End Lawsuit Blocking Ada Road Work; Pact Requires Steps to Cut Pollutants*, IDAHO STATESMAN, Nov. 21, 2000, at 1A.

³ Rocky Barker, *Feds Ease Air-Quality Rules; Pollution Decision Allows \$21 Million in Ada County Road Projects to Go Forward*, IDAHO STATESMAN, Mar. 10, 1999, at 1A.

⁴ Rocky Barker & Craig Quintana, *EPA Plan Jeopardizes Ada County Road Work; Agency Wants To Reinstate Rules To Protect Valley Air Quality*, IDAHO STATESMAN, June 6, 2000, at 1A.

⁵ Quintana, *supra* note 2, at 1A.

⁶ See Approval and Promulgation of State Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Ada County/Boise, ID Area, 68 Fed. Reg. 44,715, 44,716 (July 30, 2003). See also Barker & Quintana, *supra* note 4, at 1A.

⁷ See Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule), 69 Fed. Reg. 4566, 4571 (Jan. 30, 2004). See also Barker & Quintana, *supra* note 4 at 1A.

⁸ Craig Quintana, *Ada County Car Emissions Tests Will Get Tougher; Diesels Also Will Join the Line for Tests*, IDAHO STATESMAN, July 5, 2000, at 1A.

⁹ See Determination That Pre-existing National Ambient Air Quality Standards for PM-10 No Longer Apply to Ada County/Boise State of Idaho, 63 Fed. Reg. 57,086, 57,088 (Oct. 26, 1998).

to go into effect in 2003.¹⁰ In addition, in order to facilitate transition to the new PM-2.5 standards, the EPA promulgated a rule providing for the continued applicability of the old PM-10 standards until the states met certain criteria.¹¹ In particular, a locality would need to submit a “state implementation plan” (SIP) for EPA approval and also certify that it had sufficient resources to implement the new standards.¹² Pursuant to these provisions, the State of Idaho asked that the EPA make a determination that the pre-1997 PM-10 NAAQS no longer applied to the Northern Ada County/Boise area.¹³ An important reason for doing so was the difficulty of bringing Ada County into compliance with older requirements.¹⁴ According to one official, “The old standard was ineffective in allowing us to deal with the public health pollution of concern.”—that is, pollution other than PM-10.¹⁵ Removing the non-attainment designation from Ada County would allow state officials to focus on reducing pollution caused by the smaller PM-2.5 particulates and any other problems.¹⁶ On March 12, 1999, the EPA revoked Ada County’s two-decade-old designation as a non-attainment area.¹⁷

Two federal lawsuits complicated the EPA’s revocation. First, unrelated to the events in Idaho, litigants had challenged the 1997 EPA rule strengthening industry standards in the area of PM-2.5 particulates. In May 1999, in *American Trucking Ass’ns v. EPA*,¹⁸ the Court of Appeals for the D.C. Circuit struck down the rule as an unconstitutional delegation of legislative authority. This decision left the status of Ada County in an ambiguous state. The EPA based its revocation to a large extent on the understanding that the county would be required to meet the more stringent PM-2.5 requirements by 2003.¹⁹ Although EPA Administrator Carol Browner indicated that the agency would appeal the D.C. Circuit’s decision, she did not indicate what the effect of the Court’s ruling would be on the situation in Idaho, saying only, “We are pursuing all options available to us to overturn this decision . . . in the interim, we will take

¹⁰ Barker & Quintana, *supra* note 4, at 1A.

¹¹ See National Ambient Air Quality Standards for Particulate Matter, 62 Fed. Reg. 38,652, 38,701 (July 18, 1997).

¹² See Determination That Pre-existing National Ambient Air Quality Standards for PM-10 No Longer Apply to Ada County/Boise State of Idaho, 63 Fed. Reg. 57,086, 57,087 (Oct. 26 1998).

¹³ See *id.*

¹⁴ Barker, *supra* note 3, at 1A.

¹⁵ *Id.*

¹⁶ Rocky Barker, *Suit Could Delay Ada Road Work; Environmentalists Hope to Reverse Pollution Decision*, IDAHO STATESMAN, Mar. 13, 1999, at 1A.

¹⁷ See Determination That Pre-existing National Ambient Air Quality Standards for PM-10 No Longer Apply to Ada County/Boise State of Idaho, 64 Fed. Reg. 12,257 (Mar. 12, 1999).

¹⁸ 175 F.3d 1027, 1038 (D.C. Cir. 1999). This aspect of the D.C. Circuit’s ruling was subsequently overturned. See *Whitman v. Am. Trucking Ass’ns*, 531 U.S. 457, 475–76 (2001).

¹⁹ Rocky Barker, *Court Overrules EPA on Ada County Air Quality; Change Imperils Flying Wye, Other Highway Projects*, IDAHO STATESMAN, May 23, 1999, at 1A.

whatever steps, consistent with the court's decision, so that we can secure these protections for all Americans."²⁰

Second, a Plaintiff's coalition known as the Idaho Clean Air Force challenged the EPA's specific revocation of the county's non-attainment status.²¹ Underlying the litigants' claims was the fact that the proposal by Idaho officials that served as the impetus for the EPA's decision relied to a large extent on voluntary reductions in emissions from neighboring Canyon County, which is in the same airshed as Ada County.²² The litigants were skeptical that Canyon would undertake this effort without federal oversight.²³ If it did not, the EPA's decision would lead to a return of significant particulate pollution in Ada County and the resulting health consequences. One plaintiff in the case who suffered from cystic fibrosis said, "If I get any more, literally, I'm dead."²⁴

County officials argued that the lawsuit threatened approximately \$123 million in needed federal highway funds.²⁵ County officials such as Ada County Board of Commissioners Chairman Roger Simmons argued that losing the money would significantly hurt local economic interests without necessarily addressing public health concerns: "The impact of such a dramatic reduction would seriously set back our transportation plans and could cripple our economy for years to come."²⁶ Litigants countered that the loss of federal funds would be the fault of local officials. "If we lose those federal funds, it will be because [the] Ada Planning Association tried to get around federal statutes instead of developing projects that conform with the Clean Air Act," said Melissa Estes, an attorney for the Clean Air Force.²⁷ Estes suggested that other improvements to the county's transportation infrastructure, such as improvements to the bus system, and incentives for car pooling, would be both effective and environmentally friendly.²⁸ Local officials countered that if the EPA lost the suit, these improvements would benefit only the 25% of the population that used alternative transportation, while the 75% of the population that drove would get no new roads.²⁹

Differences between these parties seemed to render the situation hopeless. The consequences of ongoing uncertainty, however, prompted

²⁰ *Id.*

²¹ *Clean Air Force v. EPA*, Nos. 99-70289 and 70576 (9th Cir.) cited in *Approval and Promulgation of State Implementation Plans: Idaho*, 66 Fed. Reg. 19,722, 19,723 (Envtl. Prot. Agency Apr. 17, 2001) (final direct rule).

²² Rocky Barker, *Auto Pollution Casts Pall Over Ada Road Plans; Wrangle Holds Implications for Canyon County*, IDAHO STATESMAN, Jan. 9, 2000, at 1A.

²³ Barker, *supra* note 3, at 1A.

²⁴ Barker, *supra* note 16, at 1A.

²⁵ Barker & Quintana, *supra* note 4, at 1A.

²⁶ Rocky Barker, *Ada Leaders Join with Contractors To Save Road Funds*, IDAHO STATESMAN, June 15, 1999, at 1A.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

local officials to seek an alternative satisfactory to all parties. By early 2000, settlement discussions had begun between the parties.³⁰ In April 2000, the Idaho Department of Environmental Quality (DEQ) unveiled its new airshed strategy, which was intended to avert the legal battle.³¹ The plan encouraged voluntary actions to reduce emissions while also establishing limits on specific pollutants throughout the Ada and Canyon County airshed.³² “The goal is to be pro-active rather than react to federal regulatory actions,” said one state official.³³ In June 2000, the EPA announced that it was reversing its March 1999 decision to revoke the non-attainment status of Ada County,³⁴ causing concern among county officials over the future of the highway projects.³⁵ This development furthered the desire of county officials to find a mutually acceptable solution. The Community Planning Association of Southwest Idaho (COMPASS) and the DEQ also asked me to convince the EPA to propose a collaborative solution that would avoid another court battle.

Over the subsequent months, settlement talks continued among all parties. The talks threatened to break down at times, but I convinced the EPA and others to stay involved in negotiations. In November 2000, Ada County officials tentatively approved a settlement that committed COMPASS to spend \$330,000 on short-term pollution-control measures.³⁶ It also required the DEQ to commit to creating a \$1 million plan to keep the air clean and placed new pollution-control requirements on local industries.³⁷ In return, the Clean Air Force ceased litigation.³⁸ The EPA also agreed to suspend its proposal to reinstate Ada County’s non-attainment status.³⁹ At my request, the EPA agreed to oversee the fulfillment of settlement provisions.⁴⁰ In January 2001, the Department of Justice approved the settlement.⁴¹

³⁰ Barker, *supra* note 22 at 1A.

³¹ Rocky Barker, *Regulators Roll Out Air Pollution Plan; Idaho Hopes Treasure Valley Strategy Will Forestall Stricter Federal Rules*, IDAHO STATESMAN, Apr. 26, 2000, at 1B.

³² *Id.*

³³ *Id.*

³⁴ See Rescinding the Finding That the Pre-existing PM-10 Standards Are No Longer Applicable in Northern Ada County/Boise, ID, 65 Fed. Reg. 39,321 (June 26, 2000).

³⁵ Craig Quintana, *Officials Ponder Potential Effects of EPA Proposal; ACHD Director Says Rule Change Might Not Stop All Projects*, IDAHO STATESMAN, June 6, 2000, at 6A.

³⁶ Craig Quintana, *Clean-Air Agreement May End Lawsuit Blocking Ada Road Work; Pact Requires Steps To Cut Pollutants*, IDAHO STATESMAN, Nov. 21, 2000, at 1A.

³⁷ *Id.*

³⁸ *Id.*

³⁹ See Proposed Settlement Agreement, Challenge to Final CAA Action, 66 Fed. Reg. 8229, 8230 (Jan. 30, 2001).

⁴⁰ Quintana, *supra* note 36, at 1A.

⁴¹ Craig Quintana, *Agreement Drops Clean Air Lawsuit, Promises Changes; Activists, COMPASS Settle on Actions That Would Curtail Poor Air Quality*, IDAHO STATESMAN, Jan. 16, 2001, at 1B.

In April 2001, the EPA approved the plan submitted by the Idaho DEQ two months earlier in fulfillment of the settlement agreement.⁴² The approval marked the end of the two-year dispute among state officials, environmental groups and other plaintiffs, and the federal government. Collaboration between interested parties, not intervention by the federal judiciary, provided the solution to a significant policy dispute. Moreover, the solution established a different role for a federal agency—rather than issuing regulations top-down, local parties collaborated to reach a solution and incorporated an oversight role for the EPA. This model for federal involvement in local issues is fundamental to our next example of collaboration in Idaho.

III. THE OWYHEE INITIATIVE

For decades, environmental conservation groups, local, state, and federal government agencies, and business interests, mainly farmers and ranchers, clashed over water-use and land-use policies in Owyhee County, Idaho. Rather than continue battling in the courts, the parties agreed to collaborate in creating a mutually acceptable solution in what has become known as the Owyhee Initiative. Eventually, the parties intend to propose a permanent solution to these old conflicts, and I will introduce it as legislation in the Senate. The Owyhee Initiative represents a new model for policy development. Like the Ada County air quality management described above, the strength of the Owyhee Initiative rests in its emphasis on locally developed solutions rather than federal intervention.

Located in southwest Idaho, the Owyhee Canyonlands is one of the largest and most remote areas in the United States.⁴³ The land covers an area larger than Yellowstone National Park and is home to dozens of rare plant and animal species.⁴⁴ State or federal agencies govern eighty-two percent of Owyhee's 4.9 million acres of public land.⁴⁵ Some areas, including hundreds of miles of streams, have been in poor condition at times.⁴⁶ Since the 1980s, environmental conservation groups, such as the Western Watersheds Project and the Committee for Idaho's High Desert, have battled ranchers over the effects of grazing in Owyhee County.⁴⁷ During that time, the U.S. Bureau of Land Management (BLM), charged with managing federal land, cut grazing by thirty-five percent in order to meet its

⁴² See Approval and Promulgation of State Implementation Plans: Idaho, 66 Fed. Reg. 19,722-19,723 (Apr. 17, 2001).

⁴³ Rocky Barker, *Worth the Risk to Compromise*, IDAHO STATESMAN, Dec. 1, 2002, at 1.

⁴⁴ Carissa Wolf, *Land Talks Heat Up Over Owyhee Canyonlands; Environmentalists Fear That Conservation Groups on Panel are "Selling Out,"* IDAHO STATESMAN, July 29, 2003, at 16.

⁴⁵ Brian Stempeck, *Talks Among Ranchers, Enviro's And Local Officials Gain Steam In Idaho*, LAND LETTER, June 12, 2002.

⁴⁶ Barker, *supra* note 43, at 1.

⁴⁷ *Id.*

own regulations and the requirements of the Clean Water Act.⁴⁸ In addition, a federal district court ordered the BLM to issue further cutbacks in grazing by the end of 2003.⁴⁹ While protecting valuable environmental concerns, these cutbacks could have put dozens of ranchers out of business.⁵⁰ In order to survive economically, ranch families would then have to subdivide, develop, and thereby fragment what were once large, undeveloped landscapes.⁵¹

Ranchers were also concerned about the preclusion of grazing in the Owyhee Canyonlands entirely. As a result of a campaign by environmental groups, President Clinton strongly considered designating the Owyhee Canyonlands as a national monument in the last days of his administration.⁵² This designation would have precluded further development of the area.⁵³ The effort was ultimately unsuccessful, as President Clinton said he lacked sufficient time to establish the national monument.⁵⁴ But the episode sent a strong signal to the region. As outgoing Interior Secretary Bruce Babbitt said, "I predict within the next decade the Owyhee Canyonlands and Uplands will be protected by Congress as a national monument."⁵⁵

This new challenge, combined with the specter of even further reduced grazing rights, motivated ranchers to explore a resolution of their dispute with the environmental groups.⁵⁶ The Owyhee County Commission ordered its attorney, Fred Kelly Grant, widely respected in the ranching community, to find legal protection for the ranchers.⁵⁷ Grant advised the ranching community, "The Owyhee Monument was within 24 hours of designation last time. . . . The next time it's going to be put at the top of the list."⁵⁸ Federal legislation represented the only way to protect the interests of ranchers, and passing such measures would require collaboration with environmental conservation groups.⁵⁹ In 2001, the Owyhee County Commission reached out to groups such as the Nature Conservancy, the Wilderness Society, and the Idaho Conservation League to encourage them to work with others to forge compromise legislation

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Telephone Interview with Chris Salove, Commissioner, Owyhee County Commission (Apr. 7, 2002).

⁵² Barker, *supra* note 43, at 1. The President is authorized to designate federal lands as national monuments under the American Antiquities Act of 1906 § 2, 16 U.S.C. §§ 431 (2000).

⁵³ 16 U.S.C. § 431.

⁵⁴ Barker, *supra* note 43, at 1.

⁵⁵ *Id.*

⁵⁶ Stempeck, *supra* note 45.

⁵⁷ Barker, *supra* note 43, at 1.

⁵⁸ *Id.*

⁵⁹ *Id.*

that would protect the interests of all parties.⁶⁰ It was at this time that county officials contacted my office to provide support for their agenda. I agreed to work with them and to introduce legislation in the Senate resulting from their efforts, provided it had been drafted in a truly collaborative fashion.

In July 2001, county officials unveiled an effort to unite environmental conservation groups, ranchers, and Native Americans for the purpose of drafting legislation that protected both the Owyhee Canyonlands and local business interests, called the Owyhee Initiative.⁶¹ The Owyhee County Commission also issued several guidelines to the Initiative. For example, the commission recommended the establishment of an independent scientific peer review panel in order to review controversial BLM decisions.⁶² The commission also recommended establishing a system of monitoring grazing in the area. This plan may include establishing “grass banks,” which would allow ranchers to lease land temporarily for grazing while adjacent land is left alone for ecological reasons; establishing long-term grazing plans with strict environmental standards;⁶³ and creating funds for invasive species management projects, among others.⁶⁴ Groups involved in the Owyhee Initiative include the Nature Conservancy, the Wilderness Society, the Idaho Conservation League, Owyhee Cattlemen’s Association, the Owyhee Borderlands Trust, the Owyhee Soil Conservation Districts, the Owyhee County Commission, the Idaho Outfitters and Guides Association, People for the Owyhees (a recreational group), and the U.S. Air Force and the Shoshone-Paiute Tribes (as non-voting participants).⁶⁵ The Owyhee Initiative also came to include a representative from the Sierra Club as a voting participant.⁶⁶ In total, the group has ten voting members who are drafting legislation.⁶⁷ All of the Owyhee Initiative’s full Working Group meetings are open to the public.⁶⁸

In July 2003, the Work Group announced progress. Provisions of a preliminary agreement included several measures to protect environmental interests in the Canyonlands, such as designating more than 450,000 acres of land as federally protected wilderness areas and protecting hundreds of miles of rivers under the Wild and Scenic Rivers Act.⁶⁹ In return, 175,000 acres of land currently designated as Wilderness Study Areas

⁶⁰ *Id.*

⁶¹ Rocky Barker, *Owyhee County Officials Want To Take Lead Role In Preservation; Formerly Bitter Opponents Now Working Together*, IDAHO STATESMAN, July 27, 2001, at 1.

⁶² *Id.* See also Barker, *supra* note 43, at 1.

⁶³ See Barker, *supra* note 61, at 1.

⁶⁴ OWYHEE INITIATIVE, OWYHEE INITIATIVE WORK GROUP PROPOSAL 9 (Jan. 8, 2004).

⁶⁵ *Id.*

⁶⁶ Rocky Barker, *Panel on Brink of Owyhees Canyonlands Deal; Compromise on Protection Won't Please Everyone*, IDAHO STATESMAN, July 12, 2003, at 1.

⁶⁷ Stempeck, *supra* note 45.

⁶⁸ Barker, *supra* note 66, at 1.

⁶⁹ *Id.* See also Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271–1287 (2000).

would be released for grazing.⁷⁰ The preliminary agreement includes the purchase of certain private lands from ranchers to provide easement acquisition for public access to the area.⁷¹ In addition, the package would establish a process whereby an interested party could request scientific review of BLM decisions. Such review could not automatically limit BLM decisions, but would become part of the record considered by an administrative law judge reviewing the decision.⁷² Another key component to the Owyhee Initiative model is the creation of the Owyhee Initiative Board of Directors. The board would remain as a force to keep land management decisions in line with legislative intent.⁷³

Of course, the Owyhee Initiative is not without its critics. There is concern about how the final legislative language will address water rights.⁷⁴ Some have criticized the initiative for secrecy, although, as mentioned earlier, meetings are open to the public.⁷⁵ The final product cannot provide everything to all parties, but the intent is to give them as many of their primary objectives as possible. All parties agree on two things. First, federal management of the land has been ineffective in meeting the needs of both ranchers and environmental conservation groups.⁷⁶ Second, and more importantly, the Owyhee Initiative participants understand they are testing a revolutionary model for land use and public-policy development—rather than resorting to litigation or federal intervention, interested groups are collaborating in policy development at the local level. I am confident that, like the parties to the Ada County air-quality dispute, the parties involved in the Owyhee Initiative will succeed in reaching an agreement regarding land-use in Owyhee County.

IV. CONCLUSION

The Owyhee Initiative is part of a greater movement in the West to seek local solutions in the management of federal lands. As both examples in this Essay demonstrate, by working together, interested parties can collaborate at the local level to forge solutions superior to top-down federal regulation. As John DeWitt writes,

As states become leaders in environmental policy, they can work in partnership with federal agencies, nonprofit organizations, and local governments. States can convene forums where the fragmented array of federal, state, and local agencies come together,

⁷⁰ Barker, *supra* note 66, at 1.

⁷¹ *Id.*

⁷² *Id.*

⁷³ OWYHEE INITIATIVE, OWYHEE INITIATIVE WORK GROUP PROPOSAL 9 (Jan. 8, 2004).

⁷⁴ *Id.*

⁷⁵ Wolf, *supra* note 44, at 16.

⁷⁶ Stempeck, *supra* note 45.

along with leaders from the private sector, local communities, and the nonprofit community, to address local problems (like the preservation of valuable lands and waters), to explore opportunities for “greener” manufacturing processes, or to discuss broad issues, like the formulation of state and regional strategies for sustainable development.⁷⁷

This “bottom-up” model of policy-development is superior to the alternatives for several reasons. First, local participants are most closely connected to the land and therefore have better information about the issues involved as well as about the possibilities for resolution. Second, because local participants are more closely connected to the land, they have the greatest incentive to manage the land appropriately—the interests of environmentalists and ranchers in Idaho are, after all, more closely aligned than either of their interests are with those of remote federal regulators. Third, local collaboration increases access to the legislative process. When legislation is made top-down, interested parties need large amounts of resources to make their voices heard.⁷⁸ In models such as the Owyhee Initiative, the very process of collaboration empowers interested groups regardless of access to resources. Finally, the current model of land management, which involves federal regulation, and litigation for dispute resolution, is simply inefficient. Litigation can drive actions that lead to policy changes but at incredible costs, in both financial expense and time delays. These costs render policy development through litigation inaccessible to those without the means to engage in litigation. The collaboration described here achieves meaningful results that are satisfactory for the people, and are far more efficient. The model of collaboration analyzed in this Essay increases access to decision-making, and reduces the need for costly litigation because parties voice their concerns during the process. I have promised to introduce legislation resulting from the Owyhee Initiative on the floor of the Senate. Congress should pass this legislation.

A challenge of the collaborative movement is whether bottom-up solutions can be blended with national interests. The current means of deciding public land management issues is bureaucratic and multi-layered. Bottom-up solutions rooted in collaboration make it possible to incorporate elements of deliberation and debate into the current land management decision-making process from the very beginning. Inviting participation from local, state, and national interests at the outset in a collaborative format will ensure a fusing of national concerns with local con-

⁷⁷ JOHN DEWITT, CIVIC ENVIRONMENTALISM: ALTERNATIVES TO REGULATION IN STATES AND COMMUNITIES 290 (1994).

⁷⁸ See, e.g., Gregory Comeau, Note, *Bipartisan Campaign Reform Act*, 40 HARV. J. ON LEGIS. 253, 260 (2003) (noting the importance of political donations to the political process as a result of soft money expenditures by both political parties—nearly \$495 million in 2000).

cerns. As it stands now, federal, state, and local jurisdictional lines are blurred, and misunderstanding, misperceptions, and miscommunication are par for the course. The general trend in U.S. environmental policy over the past thirty years has been to shift authority away from state and local governments toward the federal government.⁷⁹ The examples in this Essay highlight the benefits of successful collaboration at the local level. Any collaborative process will encounter tough obstacles and is inherently difficult, but goals are also achievable when all parties agree to work together to achieve a mutually acceptable solution. This model produces stable outcomes and fosters long-term working relationships, which serve as a foundation for future cooperation on other problematic issues. The country should look to these examples as illustrative of an innovative and superior model for policy development in the area of environmental regulation.

⁷⁹ ROSEMARY O'LEARY, *MANAGING FOR THE ENVIRONMENT* 332 (1999).