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## **CIVIC ENVIRONMENTALISM AND NATIONAL ENVIRONMENTAL POLICY: REFORM OR ROLLBACK?**

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Usually, at a conference like this, speakers offer updates—information about new developments in policy and law. Usually these updates are about events in Washington, D.C. I do live and work in Washington, and I would guess that most of you are expecting that my presentation, like the others, will say something about events in Washington.

But the topic I was asked to address today is “Civic Environmentalism.” This is a kind of problem-solving that occurs at the local level, when people custom-design answers to local environmental challenges.

So I will speak both about the Washington scene, and about what is happening around the country. Indeed, the two topics are closely connected, in new and interesting ways.

Perhaps the best way to explain civic environmentalism is to say what it is not—and that means contrasting it to the way that the public’s business is done in Washington.

So as an opening, let’s take a quick peek at what is happening in Washington. Then, I will talk about civic environmentalism, and finally give some more information about events in Washington.

Think back to the early 1980s, the first time that the conservative tidal wave thundered into Washington. President Reagan appointed Anne Gorsuch Burford to run the Environmental Protection Agency, and Jim Watt, Secretary of the Interior. Both embraced a philosophy of rolling back the environmental protections that had been erected in the 1970s. They argued for deregulation, budget cuts for environmental agencies and devolving authority to states.

We hear these same themes today—deregulation, budgets cuts, devolution.

The House of Representatives has passed regulatory reform legislation which would require EPA and other agencies to make a strong scientific case about the magnitude of the risks that regulations are trying to reduce, and to defend these judgments in court.

The House has passed a new Clean Water Bill, and an EPA appropriations bill which would sharply cut back EPA regulatory authority—over wetlands and in many other areas.

The House has proposed to cut EPA's budget by 33 percent, and the Senate subcommittee is proposing 23 percent in cuts.

In both the Senate and the House, there are calls for giving states more authority over administration of environmental legislation.

Just like the early 1980s—maybe.

You remember what happened in the 1980s. After a fast start, the rollback of environmental protections collapsed. The proposals for rollback were highly controversial. A holy war broke out—with the white hats of environmental protection against the black hats of polluters. (Or if you were on the other side, the white hats of reform against the black hats of bureaucratic meddling and legislative overkill.) Environmental groups organized projects, and millions of citizens signed on as card-carrying members. Within three years, both Jim Watt and Anne Burford were pushed out, with much of their agendas repudiated.

This year, environmental policy seems to be starting down the same path, with a new holy war between industry and environmentalists, between polluters and bureaucrats. Perhaps the environmentalists will once again rouse the public to repel efforts for environmental reform. Or perhaps this time the conservative tide is running stronger, and the environmentalists will lose.

I think there is a third path, a middle path, which will protect environmental values, while building far more flexibility into environmental regulation.

The key to the third path is civic environmentalism.

The word “civic,” as defined by dictionaries, has two meanings. “Civic” means inherent in citizenship—your civic duties are things you do because you are a citizen, a contributing member of a local or regional community, a place. But “civic” also means “devoted to improving the health, safety, education, recreation, and morale of the population in a place through non-political means”—or at least through means that are outside traditional political action.

Now you know how traditional environmental politics works. Our environmental policies are structured around a fragmented system of narrowly-focused federal laws. Each law addresses a separate aspect of the

environment—there are separate laws, and behind them separate professions, separate environmental lobbyists, separate Congressional committees, and separate and quite independent-minded offices for each of these laws within state and federal environmental agencies.

The second feature of this well-established “governance as usual” is that the laws and the regulations and the policies tend to impose uniform regulations, uniform procedures and uniform goals on a wide array of local conditions. It is not too strong to say that environmental policies have been designed to fit an essentially top-down, narrowly-focused mode of environmental governance. There are exceptions, and limitations, but the broad pattern holds true.

It is also true that many people who work inside this system realize its limitations and are trying to break out, to find other ways of addressing environmental problems. Indeed, in the last 15 years, since that first conservative wave washed over Washington in the years of Watt and Burford, there has been a steady growth of a different way of solving problems.

Rather than impose uniform solutions, people have learned how to custom-design responses to fit local situations. And when they have done this, the practical problems which they face, the inherent complexity of most environmental problems, has led them to take a broader approach, focusing not just on one symptom or issue, but on a complex mix of environmental issues, and to social and economic issues as well.

Let me give you some examples.

In Florida, the state, local taxpayers, the federal government and the sugar industry are raising \$700 million to custom-design a massive set of artificial wetlands, and beyond that, a whole series of new facilities and new policies to change the way that water flows in the ecosystem which includes the Everglades. This initiative was custom-designed at the local level, by a group of individuals who were experts on local environmental conditions, and who worked in several different organizations—different state and federal agencies, environmental groups, research centers and even in some of the firms in the sugar industry.

The story of how this happened is illustrative of how civic environmentalism works. Most of Southern Florida was a vast wetland until 50 years ago, when the federal government built thousands of miles of levees and canals to drain the wetlands, prevent flooding and allow farming in what used to be wetlands.

About 15 years ago, problems began to arise from phosphorous running off sugarcane fields. Initially, the result was a classic environmental struggle,

focused on the narrow issue of phosphorous and on a white hat—black hat confrontation between the sugar industry and the state on one side, and environmentalists and federal parks and wildlife areas on the other.

But after the state spent over \$5 million on fruitless litigation, a new governor decided to stop defending the sugar industry. He wanted to surrender—to find a way to help protect the Everglades. He told the experts from the various agencies to work with each other to find a solution. Eventually, the sugar industry sent its technical representatives to these discussions. The experts designed a solution which responds, not only to the issue of phosphorous, but also to a much wider array of environmental problems that arise from the drainage of much of the Everglades.

This is how civic environmentalism works. The answers emerge from a dialogue among people who work at the front lines, in agencies, environmental groups and often industry as well. The experts are protected by a sponsor, in this case, the Governor, who assures that he will embrace the experts' answer, and who will tell their managers and their lawyers to stay out of the room while they design a solution.

Here is another example of civic environmentalism—one just in the making. The city of Columbus, Ohio, has a variety of environmental issues, including dioxin coming from an incinerator which the city has built, asbestos in public buildings, federal requirements to test drinking water for chemicals that are rarely used locally, and other things. The mayor of Columbus has been a vocal protestor against these unfunded federal mandates. As you may remember, the protest against unfunded top-down, uniform federal environmental rules was one of the early themes of the second conservative wave that surged last year.

The protest about unfunded mandates was a typical confrontation between advocates of strong regulation and advocates of more permissive approaches. At the same time as this battle, a civic process was going on. The mayor appointed a group of citizens to look carefully at all of the environmental issues, consider the risks which they pose to human health and to the environment, and to recommend where the city should place its priorities—on the most pressing environmental risks and the biggest opportunity for risk reduction. This process is just now coming to a conclusion, and there will soon be recommendations that perhaps the city should not do all of the things it is required to do by federal law and regulation, or at least should have some flexibility in what it does and when it does it, because the city's resources are, of course, limited.

What will happen when these recommendations come out? Will the managers of EPA's fragmented statutes and programs feel free to allow flexibility, to

say they will wait while the city addresses a different problem? That remains to be seen. It will certainly be hard, because the system's design does not allow for comparing risks and setting priorities across the array of environmental issues.

Before I go on to this question—of how federal managers respond to custom-designed answers at the local level—let me ask you how civic environmentalism is faring in your community. Are you seeing collaborative efforts at broad problem-solving? In many communities, recycling has increased significantly in recent years. This is an easy example of bottom-up problem solving. Stream and lake clean-ups are another common example. In addition to these, are you seeing more efforts to encourage farmers to reduce their use of chemicals and to adopt “greener” farming practices, not through regulations, but through education, incentives, demonstrations, and so forth?

Let's now turn to the second half of my presentation—what is happening in Washington.

My presentation is built around a report which the National Academy for Public Administration (NAPA) recently completed, at the direction of the Senate and House Committees, which appropriate funds for EPA. NAPA is a nonpartisan, nonprofit organization. Congress chartered it to “improve governance”—to find better ways to do the public's business. NAPA works through panels of experts, many of whom are elected by their peers as NAPA fellows, in recognition of their distinguished contributions to public service.

For our study of EPA, we formed a panel of distinguished individuals from the federal level and from communities, some of them with long experience in environmental issues, and some not. We spent a full year on the study, beginning before the elections that brought the Republicans to power in Congress, and concluding in the early spring after the election.

The Senate and House Appropriations Committees asked us to do a thorough review of EPA. They wanted to know: Is EPA regulating the right things in a reasonable way, or does the agency have its priorities wrong?

We interviewed 350 people and held 17 roundtables. We heard broad consensus—not unanimous, but very broad—that the EPA system is broken. Even most of the professional environmental advocates whom we interviewed agreed, though many of them were afraid of reform for fear it would lead to rollback.

Let me quickly summarize the NAPA findings and the NAPA recommendations.

The findings:

- Rising marginal costs of regulation;
- Agency viewed as intrusive, unresponsive;
- Failure to adjust to changes in state, civic capacity;
- Remaining problems not amenable to command and control approach;
- Fragmentation and stovepipes frustrating rational policy, coherent priorities;
- Statutory constraints and inconsistency.

The recommendations:

First: the agency is broken and needs to be overhauled.

- EPA lacks a clear statutory mission. It operates under several laws which address specific forms of pollution; these laws use different definitions, take different strategies and create no basis for setting priorities. EPA should articulate a coherent statutory mission; and Congress should endorse it, or provide one of its own.

- EPA should continue to set national goals and standards, but it should develop flexible, integrated approaches to deal with complex multi-faceted problems. EPA's "Common Sense" initiative is a useful step to move "beyond compliance."

- EPA's relationship with states, which manage most of its programs, should focus on results rather than on procedures. EPA should embrace "accountable devolution."

- EPA should strengthen its management systems, and take steps to integrate the fragmented system of separate offices for separate forms of pollution.

- EPA should set priorities for its budget and operations, using analysis of risks to health and the environment as a tool to help in identifying the most pressing issues and the greatest opportunities for reducing risk.

Second: EPA does need to improve the way it uses scientific estimates of risks to human health and to ecosystems.

- EPA should broaden the scope of the risks it studies, beyond risk of cancer, to include other health problems, and also ecological and societal impacts.

- EPA's risk assessments should make assumptions and uncertainties explicit.

- EPA should strengthen peer review of risk assessments, and provide public access to the analysis.

- EPA needs to train agency decision-makers in risk analysis.

Third: It is time to rebuild EPA, and EPA's relationships with states, local governments and industry.

- EPA should adopt and publish state performance indicators (environmental, programs, business behavior, customer satisfaction).
- EPA should reward successful states with less-intrusive oversight, consolidated grants, and more flexibility.
- EPA should keep up the pressure on unsuccessful states.

Fourth: NAPA called for starting to change the whole basis of environmental regulation away from numerous, highly-detailed, narrow-purpose laws, to a broader and more flexible approach.

- Congress should ask EPA to propose an integrated pollution-control statute within 18 months.
- Congress should reduce the number of subcommittees with jurisdiction over EPA.
- Congress should focus on results, and give the EPA administrator more discretion; it should reduce micro-management and earmarks of EPA's budget.

And NAPA called for major changes in how EPA is organized and does its work; currently, it is fragmented, unmanageable by design.

- EPA should send Congress a plan to reorganize along functional lines, rather than by media.
- EPA should merge budget and planning operations (OARM and OPPE) to create tighter links between policy, performance and budget.
- EPA should equip the deputy administrator to function as chief operating officer.

It is too soon to say whether these recommendations will be adopted. They have been strongly endorsed by Senators Kit Bond and Barbara Mikulski, the Republican and the Democrat who run the subcommittee that writes EPA's budget. Carol Browner, the EPA Administrator, has said she agrees with most of the NAPA recommendations.

As the holy war heats up, the NAPA recommendations are a middle path, which Senator Mikulski called "common ground for common sense," and they might get lost in the cross-fire.

In the long run, I believe there will be substantial reform in Congress and at EPA, without dismantling the protections which we have put in place. The source of this optimism about finding a middle path is the fact that a transformation is already taking place in how Americans protect the environment.

The edifice of environmental statutes was written in fear—that industry



would always pollute, and that politicians (especially at the state and local level) would always sacrifice environmental values to protect industry. Our laws are incredibly detailed and prescriptive. It is truly a command-and-control system.

But over the last decade, since the days of Watt and Gorsuch, three things have happened which permit governments and the private sector to manage environmental problems more efficiently and closer to home.

First, the public is better informed and still firmly committed to environmental values.

Second, states and local governments have built significant capacity to manage environmental problems.

Third, these changes, and the fact that a rollback of environmental laws did not work in the 1980s, have led to dramatic changes in how many businesses—not all, but many—view environmental protection. Many have found that becoming an environmental leader is good for business. Reducing pollution can cut costs and reduce liabilities. Being quick to improve practices, as we learn about new kinds of pollution and new ways to reduce environmental risks, can give a company a competitive advantage, a way to get ahead of its rivals.

As we worked on this report, we met several people who compared environmental policy with raising teenagers. When your children are young, you need clear rules to teach them right and wrong. You need to enforce them firmly. But as your children grow into adults, they internalize their parents' values, and they must figure out how to honor these values in many complicated situations. The smart parent stands by his rules and upholds his values, but no longer tries to micro-manage how his children behave.

In the 1970s and the early 1980s, states and local governments, and most businesses, were still in the childhood phase of environmental protection. Now most states, and many local governments and firms, are young adults. They are ready to exercise a great degree of discretion about how to solve environmental problems, within the context of clear federal environmental goals and active monitoring about actual performance in achieving these goals.

This brings me back to civic environmentalism. What has happened in the past decade and a half is that a new kind of environmentalism has emerged.

Our statutes and our agencies are still built around a narrow, top-down approach—with uniform national procedures, and often uniform national standards, for a welter of specific kinds of pollution.

But environmental issues are not like that; they are complicated, multifaceted and interdependent. And we are learning that, as states, communities, businesses and citizens accept environmental values and develop the capacity to make sound environmental decisions, it is a good thing to allow them to custom-design solutions for different places.

This new way of problem-solving is a civic approach—it builds on the ability of citizens to come together to work out a reasonable and effective way of solving problems locally.

The new and growing capacity in states, communities and businesses is the key to civic environmentalism, and is also the reason why we can move to a more flexible regulatory system. As long as states, local governments and industry have the technical skills, legal authority and program tools to manage environmental problems, it is safe to allow much more flexibility in our regulatory system, and to use non-regulatory tools, like education, technical assistance and financial incentives, instead of relying exclusively on command-and-control rules.

The NAPA report, with its vision for a new EPA, has been well-received in Washington. Carol Browner, EPA administrator, has welcomed it, and has organized two task forces to develop specific recommendations for unifying EPA's scattered statutes, and for reorganizing the agency, so that it can set reasonable priorities and allow more flexibility to states, local governments and industry.

Both the chair and the ranking Democrat on the Senate Appropriations subcommittee endorsed the NAPA report enthusiastically, and the committee directed the agency to implement the NAPA recommendations. The House Appropriators also welcomed the NAPA report.

Of course, the NAPA report is far from the only set of new ideas about EPA in Washington. The House has passed both a revised Clean Water Act and an appropriation for EPA, which would eliminate, weaken or put in abeyance many of the authorities which EPA has exercised for several years, including its authority to protect wetlands. EPA, environmental groups, and many others have criticized these measures, and a bitter black hat-versus-white hat battle is shaping up around these proposals.

I cannot predict the immediate future. The situation is very fluid. However, in the long run, I am optimistic that the public will continue to support environmental protection, even when protection costs them time and money, as long as they have a sense that the public, local leaders and

experts who are truly knowledgeable about local conditions, have had the opportunity to custom-design solutions which seem to make the most sense, at least cost. In short, as long as EPA allows civic environmentalism to flourish, I think the public will support continued regulation. And as long as a sensible and effective regulatory system is in place, people will find it in their interest to take a collaborative, civic approach to solving problems.