

University of Colorado Law School

Colorado Law Scholarly Commons

Challenging Federal Ownership and
Management: Public Lands and Public Benefits
(October 11-13)

1995

10-13-1995

Consensus Groups and Grassroots Democracy: Maybe Those Who Say It Cannot Be Done Should Get Out of the Way of Those Doing It

Mary Margaret Chapman

Follow this and additional works at: <https://scholar.law.colorado.edu/challenging-federal-ownership-management>



Part of the Administrative Law Commons, Business Organizations Law Commons, Environmental Policy Commons, Law and Economics Commons, Natural Resource Economics Commons, Natural Resources Management and Policy Commons, Policy Design, Analysis, and Evaluation Commons, Property Law and Real Estate Commons, Public Policy Commons, and the State and Local Government Law Commons

Citation Information

Chapman, Mary Margaret, "Consensus Groups and Grassroots Democracy: Maybe Those Who Say It Cannot Be Done Should Get Out of the Way of Those Doing It" (1995). *Challenging Federal Ownership and Management: Public Lands and Public Benefits (October 11-13)*.
<https://scholar.law.colorado.edu/challenging-federal-ownership-management/16>

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.



Mary Margaret Chapman, *Consensus Groups and Grassroots Democracy: Maybe Those Who Say It Cannot Be Done Should Get Out of the Way of Those Doing It*, in CHALLENGING FEDERAL OWNERSHIP AND MANAGEMENT: PUBLIC LANDS AND PUBLIC BENEFITS (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 1995).

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.

***CONSENSUS GROUPS AND GRASSROOTS DEMOCRACY:
MAYBE THOSE WHO SAY IT CANNOT BE DONE
SHOULD GET OUT OF THE WAY OF THOSE DOING IT***

Mary Margaret Chapman
Senior Research Fellow
Center for the New West
September, 1995

draft outline

Consensus Groups and Grassroots Democracy:

Maybe those who say it cannot be done ought to get out of the way
of those doing it

by Mary Margaret Chapman

I. Summary

How the vast public lands of the West are managed as a critical impact on local economies and the environment. As a result, failures in the federal system of management of these lands are forging new alliances among Westerners who have often been at odds in the past. Unprecedented rural groups of ranchers, environmental activists, loggers, county commissioners, agency personnel, small town merchants and others are finding new ways to have a greater say in how the natural resources of the West are managed.

These groups may also be laying the groundwork for infusing government with more face-to-face democracy and civic dialogue in the West.

This paper provides a policy analyst's overview of this grassroots movement and what it will need to be successful. Environmental attorney Mike Jackson will use most of the time allotted to this session, describing the efforts of a group he helped organize in northern California, called the **Quincy Library Group**.

II. Communities in the West are responding to three types of weaknesses in the federal system of land management. Overcoming these weaknesses may require moving away from centralized management and toward community-level involvement in natural resource decision making. These three fundamental weaknesses are:

A. A philosophy has gone lame

1. The liberal doctrine of individual rights is ill-suited for governing "the commons" -- i.e. the public lands. (Roberto Unger, Knowledge and Politics; 1984; Daniel Kemmis, 1984; Community and The Politics of Place, 1990; Philip K. Howard, The Death of Common Sense, 1994; Joel F. Handler, Law and the Search for Community, 1990.)
2. The "placelessness" associated with this doctrine has weakened our sense of meaningful politics, and of our relationship and responsibility to the place we inhabit. (Wendell Berry, The Unsettling of America, 1977; Daniel Kemmis, 1990.)
3. The mismatch is more keenly felt in the West because almost half the lands are federally owned and managed.

B. Structural and functional weaknesses in the federal system of public lands management is forcing reform.

1. These weaknesses are symptomatic of the scientific method of management, applied in a political environment. (Robert H. Nelson, Reaching for Heaven on Earth, 1991; also by Nelson, Public Lands and Private Rights, 1995.)
2. Instead of decentralizing natural resource bureaucracies in the 1970's and the 1980's, greater centralization occurred. This attempt to bolster the public lands bureaucracies actually weakened their effectiveness. By 1990, effectiveness had collapsed into political paralysis and gridlock. (Robert H. Nelson, 1991; 1995; and Robert H. Nelson and Mary M. Chapman, "Decentralizing the Federal Lands", *Center for the New West Chronicle*, 1995.)

During the 20th Century, bureaucracies became the mechanism, and scientific management the method by which public lands were managed. Scientific management has failed world wide. So have the bureaucracies created to administer science -- including public lands agencies.

The normal responses to ineffective bureaucracy are deregulation, downsizing, decentralizing, and privatizing. An abnormal response occurred in the public land management arena. Instead of downsizing and decentralizing, public land agencies were bolstered with a new statutory foundation in the 1970's and 1980's. By 1990, this statutory foundation was collapsing into political paralysis and gridlock. (Nelson/Chapman, 1995.)

2. Greater community-based involvement in public lands decisions has occurred in the 1990's in an attempt to accomplish what the public lands agencies cannot.

C. Financial weaknesses will force reforms.

1. The financial condition of the federal government, combined with citizen distrust of government and a growing reluctance to support large bureaucracy, and "subsidization", spell uncertainty for the rural West. "Just as the West benefited disproportionately from past Federal largess, it could now suffer disproportionately if the West itself does not come up with solutions. (Donald Snow, "Toward a New Governance", *Northern Lights Journal*, 1995; Nelson/Chapman, 1995.)

III. The West's response to these fundamental weaknesses in the federal system generally fall into two broad categories. One represents the status quo and the other may well indicate more systemic change.

A. The "status-quo approach" involves demanding from the government some form of special rights, and expecting the government to enforce those rights.

1. The Wise-Use movement, the environmental Movement, and the Property rights movement are alike in that they are essentially special interest approaches to governance. (Barbara Rusmore, *Northern Lights Journal*, Spring, 1994)

B. A systemic change may evolve from the consensus-based local and regional groups. These groups come in at least two general sizes, and many flavors.

1. Community consensus groups are one variation. They are "place-based", and focus on a relationship between a community and its environment.
2. Regional consensus groups are a second variation. These groups are usually dealing with a larger geographic territory or resource -- a river, for example. For these groups, the definition of community is often broadened to mean a "community-of-interests" -- in contrast to a "place-based" more traditional concept of community.

Instead of pursuing their individual interests through the regulatory bureaucracy, members of both types of groups are identifying and pursuing solutions they believe to be in the best interests of a community, or a community of interests. Both employ a form of face-to-face democracy that requires collaboration, compromise, ingenuity, and the assumption of local responsibility.

IV. Research findings on "place-based" community groups

A 1994 **Center for the New West** Conference on community consensus groups and subsequent follow-up indicate that a fairly clear set of advantages, disadvantages, and common-sense policy prescriptions emerge. (*Center for the New West Conference Proceedings, 1994; Nelson/Chapman, 1995.*)

A. Advantages of community based approaches to decision making include the following:

1. Problems they are framed in a local context. They are real, tangible, and decipherable. For the most part, they are not that abstract. This makes it easier to define goals and objectives and measure progress.
2. Responsibility and accountability for decisions and implementation can be clearly identified and reflected in workplans.

3. The diversity of viewpoints at the table means a broader pool of knowledge is tapped than has been the norm in the Western communities. Members of these groups have to be willing to listen and learn about the economy, the environment and the culture. They must consider all three when addressing problems.

4. Because science is de-hitched from the regulatory process, science can once again be a "friend" in the decision-making process.

5. Citizens start thinking in terms of "connectedness", the integrity of the landscape, its relationship to the economy and to the people. (Public officials and environmentalists might use the word "ecosystem".)

6. The need for compromise is obvious, and therefore more palatable. This is because participants are expected to explain their own interests in relationship to the broader interests of the "place" they live. Nobody expects to get everything they want. Everybody hopes to get more than they would had they not participated. And they hope that whatever they get will be more long-lasting.

B. Disadvantages or obstacles to community-based approaches are significant. "A toothless dog chews careful".

1. Community groups have little real authority in the existing system. Most are trying to bring about reform from within the public lands system at the local level, using its various and sometimes conflicting authorities. The **Quincy Library Group** which has obtained special Congressional authority and funding, is one of the few exceptions.

2. The existing public lands system is designed to encourage individual responses to environmental issues. Community groups are trying to look at environmental issues in relationship to their community and vice-versa. Community groups are also trying to develop community consensus -- something that requires participants to put some individual interests aside for the benefit of the broader community and its environment. There are basic incompatibilities between what the existing system is designed to do, and what consensus groups want it to do.

3. The Federal Advisory Committee Act (FACA) is an obstacle.

4. Late-comers to the community based processes pose a real challenge to progress and problem solving.
5. The need to remain free of special interest money and federal government financing, makes funding a chronic problem for many groups.
6. Inadequate technical information and access to experts can be an impediment to finding good solutions.

V. Conclusion

Current local and regional efforts at consensus-based problem solving point to some common sense public policy prescriptions for reforming the system of public land management. Following are some of those prescriptions.

1. Intelligent and whole hearted input and cooperation from those who live on the land must be encouraged.
2. Decentralized decision-making and authority within public lands agencies must occur so that public land managers can actually make and implement decisions that fit the locality.
3. Local economies must be able to continue to use the resources of the public lands, providing that those uses are sustainable or restorative. A better understanding of environmental limits and carrying capacity is needed by everyone. (Rocy Barker, Saving all the Parts, 1993.)
4. Positive incentives for good land management must be adopted, including clear rules and mechanisms for securing tenure.
5. The cooperation of private landowners must be a goal if riparian areas, big game ranges, migration routes and other ecologically important areas on lands are to be protected.

6. The West must begin to take on greater financial responsibility, and look for more cost-effective and flexible methods of achieving natural resource goals.

Primary Reference Books

Barker, Rocky. Saving All the Parts. Island Press, 1993.

Berry, Wendell. The Unsettling of America. Avon Books, 1977.

Handler, Joel F. Law and the Search for Community. University of Pennsylvania Press, 1990.

Howard, Philip K. The Death of Common Sense: How Law is Suffocating America, Random House, 1994.

Kemmis, Daniel. Community and the Politics of Place.

Leal, Donald. "Making Money on Timber Sales: A Federal and State Comparison" in Multiple Conflicts over Multiple Uses, Terry L. Anderson, ed. Political Economy Research Center, 1994.

Mann, Charles C. and Mark L. Plummer. Noah's Choice: The Future of Endangered Species. Alfred A. Knopf, 1995.

Nelson, Robert H. Public Lands and Private Rights: The Failure of Scientific Management. Rowan and Littlefield Publishers, Inc., 1995.

Also by Robert H. Nelson. Reaching for Heaven on Earth: The Theological Meaning of Economics. Rowan and Littlefield Publishers, Inc. 1991.

Sargent, Frederick, Paul Lusk, Jose' A. Rivera and Maria Varela. Rural Environmental Planning for Sustainable Communities. Island Press, 1991.

Unger, Roberto. Knowledge and Politics. The Free Press, 1984.

Researcher's notes from Articles and Journals

Baden, John. "A Clash of Cultures in the Emerging West". *Northern Lights Journal*. Winter, 1994.

Chapman, Mary. "A View from the Back of the Pumpkin Truck". Center for the New West *Chronicle*, October, 1993. (Remarks delivered at CU's Public Lands Conference in the Fall of 1993.) *Also*, "Green is not Green", testimony before the Department of Interior, Spring, 1993.

Leal, Donald. "Making Money on Timber Sales: A Federal and State Comparison" in Multiple Conflicts over Multiple Uses, Terry L. Anderson, ed. Political Economy Research Center, 1994.

Nelson, Robert and Mary Chapman. "Decentralizing the Federal Lands: New Tools for Public Lands Management". Center for the New West *Chronicle*, September, 1995. *Also see*, "The Quiet Revolution: New Grassroots Coalitions in Natural Resource Decision-Making. Proceedings. May 26, 1994. Center for the New West.

Preston, Michael, and Sam Burns. (Office of Community Services, Fort Lewis College, Durango, Colorado). "Finding Common Ground: A Local Stewardship Development Process", 1994 (unpublished). *Also by* Mike Preston, "Public Lands in the West: Tension and Dialogue", 1994, (may have been published as part of CU's 1994 Public Land Conference Proceedings); "County Government, Federal Lands and Economic Development: A Journey of Discovery", a paper delivered to the Western Interstate Regional Conference, May 13, 1993.

Preston, Michael, John Devilbiss, and Eric Siverts. "Sustainable Economic Development in Rural Areas: Balancing Economics and Ecology in Rural Economic Development". 1993.

Rusmore, Barbara. "Wise Use and the Limits of Public Land". *Northern Lights Journal*, Winter, 1994.

Snow, Donald. "New Governance (Or Return to Old Apathy?)" *Northern Lights Journal*, Spring, 1995. *Also by* Don Snow, "The Pristine Silence of Leaving it All Alone". *Northern Lights Journal*, Winter 1994, Volume IX, Number 4; "Where the Streams all Come Together: Watershed and Community in the American West", November 14, 1994 (an unpublished paper); and testimony on "The Changing Needs of the West", before the Committee on Natural Resources, U.S. House of Representatives, April 7, 1994. US Government Printing Office, 1994.

Shannon, Margaret. "Community Governance: An Enduring Institution of Democracy." Proceedings and summary of a Workshop convened on March 5 and 6, 1992, titled Multiple Use and Sustained Yield: Changing Philosophies for Federal Land Management. U.S. Government Printing Office, 1993.