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Environment

Environmental Policy: Moving from “Needs” to “Wants”

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This Issue Brief is published by the Thomas Jefferson Institute for Public Policy and is sent to elected leaders, business executives, policy experts, community leaders and to the media in order to offer ideas and information to further the public debate in our state.

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Briefing Paper

Environment

Foreword

The Thomas Jefferson Institute for Public Policy feels an environmental strategy that minimizes conflict and focuses on the widest range of responses to environmental concerns will achieve the best results for Virginia. This Issue Brief outlines some ideas that will add to the public discussion on this emotional topic.

The author of this Issue Brief promotes a strategy for Virginia's environmental stewardship focusing on the following: devolution of environmental federalism, risk analysis, incentive analysis, problem solving emphasis, and property based solutions. She writes that we no longer need federal mandates that result in Amoco in Yorktown spending four-times what was needed to achieve the same results if they were allowed to implement their own environmental plan. We no longer need federal guidelines that cause Anchorage, Alaska to purposefully pollute their treatment plant inflow just so they can meet federally mandated reductions in outflow pollutants.

This Issue Brief takes the position that we need to make sure our solutions to environmental concerns respect the rights of property owners and don't reverse gains we make in one area with reversals in another. A South Carolina land owner stopped efforts to attract wildlife to 6,000 acres of land after he was kept from using 2,000 acres because of concern over a woodpecker's habitat.

It seems reasonable that an environmental policy should reflect the diversity of the state while it enhances Virginia's scenic and natural beauty.

The attached Issue Brief should serve as a foundation for environmental discussions in the months ahead.

Michael W. Thompson
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Environmental Policy: Moving from "Needs" to "Wants"

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The modern environmental movement has taught us that everything is connected to everything else. We should not look at things in isolation, but instead, consider the intricate nature of the complex ecosystem. Consequently, we now pay greater attention to the many ways one riparian landowner's activities can affect downstream users. Or how the loss of habitat can lead to unintended consequences for any number of plant and animal species. Or how auto emissions contributed by hundreds of thousands of car owners in one region can affect the airshed in another.

Armed with this more sophisticated awareness of environmental intricacies, we're poised to take environmentalism one step further. We now need to truly link environmentalism to *everything else*. That is, we can no longer isolate environmentalism from the very things that make up the human world -- human values, economic dynamism, or anything else that matters to us as people. Rather than upholding environmental concerns as unique, rare, and set aside from all other concerns, we need to see environmentalism as an integral part of daily living. Otherwise, we risk a continuation of our current situation: conflict, hostility, and miscommunication amongst the many people that affect, and are affected by, the environment.

The new focus needs to find solutions amidst diverse perspectives. It must be problem oriented and process providing. It needs to give direction towards meeting environmental goals while accepting diversity, not only amongst non-human biological creatures, but amongst humans as well.

HUMAN VALUES AND ENVIRONMENTALISM

Common sense, supported by the contributions of psychologists, biologists and other behavioralists, tells us that people address their most basic survival needs -- food, water, and shelter -- before addressing other "wants." In areas of the world where people face a daily struggle for the basic necessities such as access to water, there is little controversy over whether the water should be pristine or "just clean enough." But in the wealthier parts of the world, environmentalism extends far beyond meeting basic needs. Instead, the battles loom over questions such as, "how clean is clean," "how old is old?", and "how safe is safe?"

James R. Dunn and John E. Kinney, for example, compared leading environmental issues in the US with top environmental concerns in Ethiopia. They found virtually no overlap between the two lists. While Americans are supposedly concerned about hazardous wastes, exposure to toxics, and destruction of the ozone layer, Ethiopians fear disease, soil erosion, lack of sewage treatment and drinking water. Interestingly, Americans must be told by outside "experts" that the problems exist. The Africans' problems are obvious.¹

Much of the initial appeal of the modern environmental movement rested in its commitment to righting environmental wrongs -- wrongs that were widely perceived as a threat to our basic needs. When the Cuyahoga River caught on fire, or when toxic sludge began seeping into the basements of peoples' homes in Love Canal, New York, it was easy to adopt a crisis state mentality towards the environment. But we're now past the crisis stage of environmentalism. Despite repeated and continued calls of daily new crises, most, if not all, have not come to pass. There is no evidence that anyone dies from pesticide residues in the U.S.² Acid rain, it turns out, is more of an aesthetic than an ecological problem. No massive epidemic of skin cancer related to CFCs has come about.³ And virtually every other potential problem is mired in controversy over the nature of its seriousness.

As each crisis is slowly re-examined, support for environmentalism is changing. The Wisconsin Policy Research Institute in Milwaukee, which surveys state residents to identify and review attitude changes, finds, "The environment is disappearing as a major issue. People now perceive the environment in more positive terms than they previously did, and they have more optimistic expectations about its future."⁴

Indeed, some people point to improvements made in air, water, and land quality and feel we have met our basic environmental needs. We should safeguard these strides but focus on other pressing needs -- environmental and otherwise -- rather than pursuing an agenda of environmental extremism. From this perspective, it makes little sense to continue investing millions of dollars to cleanse hazardous waste run-off in order to marginally improve drinking water standards when alternatively, the money could be used to help the 3.9 million developing-world children (under age 5) who die annually from diarrheal diseases caused mostly by impure drinking water.⁵

Others hail so-called "dirt eating" rules -- based on one EPA requirement that soil on a toxic waste site be cleaned to the level at which kids could eat 1 teaspoon each month for 70 years and not contract cancer -- and push for even more. From this perspective, the strides are fine, but zero risk and zero discharge are better.

The gap between these two competing perspectives helps explain the animosity and conflict that has evolved in the past decade. Bumper stickers like "Save a logger, eat an owl," or "Help the population problem -- kill yourself," can be laughed off as simply humorous, but they nonetheless suggest deep-rooted concerns and animosities.

In other words, we've made the obvious and easier improvements to air, land, and water during the past few decades. American environmentalism is decreasingly about fulfilling needs, and

increasingly about invisible problems -- those that are measured in parts per billion, parts per trillion, or that occur 30 miles above the ground. We're moving beyond "needs" and into the realm of "wants" where consensus is unlikely. Hence, we need to pursue a strategy that minimizes conflict and offers the widest range of responses to widely diverging valuations of environmentalism. The themes outlined below offer an approach for such a strategy:

- * devolution or environmental federalism
- * risk analysis
- * incentive analysis and problem solving emphasis
 - accountability and responsibility
 - flexibility
 - getting the most bang for the buck -- refocusing our actions, not to simply "do something," but to do what will actually get the job done.
- * property-based solutions

1. DEVOLUTION OR ENVIRONMENTAL FEDERALISM

With growing intolerance to the federal government's inability to meet the needs of the citizenry, the idea of "federalism" or "devolution" has risen in popularity. There's a growing exploration of ways to turn power back to the states in policy areas as diverse as welfare reform, crime reduction, educational reform, and environmental protection. Additionally, devolution asks, "can greater powers be given to local governments, voluntary associations, or even individual citizens?"

Devolution has great appeal for several reasons. Most importantly, people are increasingly aware that regional residents have unique access and knowledge about localized conditions, culture, and problems. There's little reason to believe that federal bureaucrats, sometimes

thousands of miles away, can be more intimately familiar with local needs and wants. Hence, devolution minimizes the disruptions from "one-size-fits-all" environmental policies, which, for example, require car owners in remote North Dakota to purchase cars that meet pollution standards in heavily-congested Los Angeles. ⁶

Devolution also addresses the "unfunded mandates" problem in which the federal government imposes specific regulations but requires the locals to foot the bill. Unfunded mandates contributed to the laughable situation in Anchorage, Alaska, where local residents found an innovative solution to the federal rule requiring all municipalities to remove at least 30% of the organic waste from incoming sewage. With inflows that are often cleaner than federally prescribed levels of outflows, the local government understandably balked at footing the \$135 million bill for a new sewage treatment plant. Instead, it met federal rules by inviting local fish processors to dump fish wastes into the waters. That dirtied the inflows sufficiently that they could cheaply meet the 30% cleanup requirement by turning around and "fishing" it out.

The Commonwealth of Virginia has experimented with ways to put devolution into practice, drawing both praises and criticism. The Commonwealth battled the Environmental Protection Agency, for example, over alternative ways to meet federal clean air standards. Virginia wrestled to retain the right to have local service stations test automobile tailpipe emissions and repair noncomplying vehicles. It continues to lock horns with the EPA in the area of monitoring and enforcing water quality standards. And its joining many other state and local governments in recognizing the pitfalls of the federal Superfund program and looking, instead, to ways that localities can better address the problem of hazardous waste site clean up.

Despite the criticism that Virginia is "undercutting US environmental rules",⁷ many environmental conditions in the state are improving.

- EPA recently concluded that DEQ's (Department of Environmental Quality) decentralized, test-and-repair car emissions inspection and maintenance program in Northern Virginia is

one of the best of its kind in the nation.

- Air quality has improved enough that three of Virginia's four federally designated non-attainment areas -- Richmond and Hampton Roads for ozone smog and Northern Virginia for carbon monoxide -- now meet federal air quality standards. These areas currently qualify to be upgraded to "attainment status."
- 95% of the 30,000 miles of rivers and streams DEQ monitors meet federal standards for fishing and swimming -- more mileage than any other state. The national average for meeting federal standards is about 40%.⁸

By taking advantage of localized information and evolving technology, decentralism allows localities to make innovative use of information technology and work towards problem solving, rather than federal paper pushing and procedural battles. And the bottom line, remember, is the US Constitution's Tenth Amendment to the Bill of Rights: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

2. RISK ANALYSIS or "Getting more bang for the Buck"

Irrational risk assessments have helped boost the popularity of devolution. Too often, federal prescriptions for environmental policy are based on ridiculous descriptions of the costs, benefits, and risks associated with alternative actions.

Risk analysis, to the extent feasible, should be used to help rank projects to identify priorities for action. This enables policy makers to "get the most bang for the buck." For too long, our commitment to environmental protection has mistakenly been measured by how much we *spend*,

rather than how much we *achieve*. More and more, we need to consider risk assessment as a serious action-planning tool, rather than the spurious exercise it often turns out to be. The federal Superfund program is a case in point.

At a New Hampshire site, the EPA forced the expenditure of millions of dollars to clean soil to the point where children could eat dirt 245 days a year. To find any risk from the current use of a site in South Carolina, another assessment assumed that a hunter would eat deer or fish taken from a barren two-acre site twice a week for 70 years. A Duke University study found that 91% of all the carcinogen risks against which EPA is protecting would arise only by inappropriate uses of the land or inappropriate activities on the land.⁹ The EPA has no accountability or responsibility for clean up charges, leading to the exorbitant expenses resulting from the hypothetical risk assessments. Consequently, the list of target sites continues to grow, with little actual clean up going on.

Recognizing the unlikelihood of cleanup, as well as the immense federal charges imposed by the EPA, an increasing number of localities is fighting to keep local sites from being designated as Superfund sites. Boosting the benefits of devolution, the regional track records have beat the federal government's Superfund. The town of Charlevoix, Michigan, for example, so feared being bankrupted by the Superfund process that it quickly addressed toxic problems and avoided what it calls the "Superfund stigma."¹⁰ Similarly, when contaminated groundwater was found in the central business district of Wichita, Kansas, the city rejected the federal alternative and opted for a public-private partnership project. The water was cleaned up in far less time than the Superfund alternative.¹¹

Virginia has joined the ranks of states and localities to block the EPA from adding new sites to the federal Superfund list. Governor Allen denied National Priority List status for Radford Army Ammunition Plant (Radford, VA), Vint Hill Farms Station (Warrenton), Woodbridge Research Facility (Woodbridge), Nansmond Ordnance Depot (Suffolk), Beverly Exxon,

Norfolk Intercoastal Steel (Norfolk), and the Saltville Town Dump (Saltville) in favor of local remediation. This allows those people actually affected by the problem to examine the relative risks and decide upon the best option. By linking the risk assessment to local costs and options, environmental policy necessarily becomes more common sensical. Policy makers should continue to explore areas in which local residents are put in the position to evaluate the risks they face, and determine, based on that self-assessment, the best ways to precede. Looking at Superfund alone, local residents are often in disagreement with the federal government over the nature of the problem, or, whether a problem exists at all.

3. INCENTIVE ANALYSIS

Intricately linked to the above two components, incentive analysis focuses on accountability, responsibility, and flexibility. In other words, it asks "What incentives do people have to comply with or ignore environmental policy? What incentives do people have to voluntarily take actions to protect and enhance the environment?"

Are industry representatives viewed as partners in environmental protection or are they treated as the enemy? When policies are designed, do they give people flexibility to meet the desired goal or do they require specific procedures and methods? Are people held accountable for their actions such that positive outcomes are rewarded and negative ones are penalized? Are individual citizens encouraged to contribute to environmental enhancement or are they viewed as insignificant players in the bigger picture?

This series of questions focuses on the interrelated nature of environmentalism *and the world around it*. People are more and more aware of the importance of sound environmental practices and increasingly willing to do the right thing. Unfortunately, many governing policies are burdensome and inflexible, leaving few options for people to protect the environment in the ways

they are best able to. Interestingly, a National Law Journal article found that 70% of corporate lawyers believe that compliance with all environmental laws is impossible.¹²

Our three-decades long experiment with environmental policy has taught some important lessons, but we continue to struggle with the most obvious problems. For example, command-and-control policies which require specific industrial practices or processes have proven to be inefficient and ineffective when compared to alternatives which allow greater flexibility and creativity.

When faced with specific commands, industries respond by complying with the command, even if other options are better for the environment. For example, a study by the EPA and the Amoco Oil Company of the Amoco refinery in Yorktown, Virginia, found that the best pollution reduction options for the plant "did not coincide with existing regulatory requirements," and that "equivalent levels of protection could have been achieved at 25% of the cost of current regulatory programs." Allowing the plant's managers to determine the best way to reduce waste from the refinery would have cost one-fourth as much as complying with the regulations, yet would have achieved the same level of emission reductions.¹³

Common sense suggests that localities develop ways to work cooperatively with industry. The Commonwealth has been experimenting with ways to do so. It has enacted a law protecting companies from disclosure and punishment when they detect pollution violations in self-inspections and remedy them. The Department of Environmental Quality, for example, Of course, there is plenty of room for abuse under such programs, but at the same time, there is room for technological innovation and flexibility to meet shared environmental goals.

Many companies have demonstrated that they are willing partners in environmental protection, provided the incentives are aligned properly to offer flexibility in meeting other business objectives. International Paper Company, for example, employs full-time biologists to oversee

fish, game and timber on its lands throughout the southern United States. Streamside Management Zones are established where logging is not permitted. Underbrush is cleared through the practice of prescribed burns to stimulate forage for wildlife. Habitat diversity is created by varying the composition of trees in different zones. The company faces the incentive for multiple use because it can profit both from recreational and hunting uses as well as from sound timber management.

In the end, politics should once again yield to common sense. The "right" approach should be judged on environmental indicators, such as the level of improvements in air, land, and water quality, rather than political indicators such as the number of fines imposed, or the number of companies that have been strewn across the headlines for environmental chicanery.

4. PROPERTY-BASED SOLUTIONS

Many of the adversarial positions that have arisen in the environmental policy arena are largely due to property rights problems. As more and more people feel their basic rights are infringed upon in the quest for environmental protection, the less support there will be for once common goals. Wetlands and endangered species regulations undoubtedly top the list for causing conflict, ill-will, and erosion of support for environmental protection.

The situation is undoubtedly familiar to most policy makers: land owners found to have either wetlands or endangered species on their property are limited in their ability to use their land. A typical example is the case of Ben Cone, a woodland owner in South Carolina. After authorities discovered the endangered Red-cockaded Woodpecker nesting on some of his property, Cone lost the right to grow timber on 2,000 of his 8,000 acres. Beyond the damage to Cone's business, wildlife lost out as well. Fearing additional losses to his remaining property, Cone reassessed his practices to diminish the attraction for other endangered species.

The decades-long environmental experiment has also hammered home the message that each individual citizen can play a key role in environmental protection. To ignore the Ben Cones of the world would be environmental folly. Private landowners provide a majority of the habitat for plants and animals in our nation. According to Dr. Mitchell Byrd, an authority on birds of prey with the Center for Conservation Biology at the College of William and Mary, more than 200 eagles visit the banks of Virginia's Rappahannock River during the spring and summer, migrating north from Florida. Another 200, mostly from New England and Canada's Maritime Provinces are found during the fall and winter. These numbers also include 55 mated pairs of eagles that stay on the Rappahannock more or less year-round. The contributions of the many private landowners involved in eagle habitat are tremendous. It only makes sense to work as partners, rather than combatants. Adopting property-based solutions can foster and enhance that partnership.

An encouraging sign of property-based solutions comes from local preservationists. The *Richmond Times-Dispatch* reported that preservationists are buying land to keep Wal-Mart off a site next to George Washington's boyhood home on Ferry Farm. The agreement, in which the preservationists will pay \$2.2 million for 25 acres where Wal-Mart planned to build a store, has satisfied the landowner, the county, the retailer, and the preservationists. By engaging in a market exchange, rather than a political battle, the actors respected property rights and worked out an amiable solution -- in a much shorter time than the political process could have done. The 9-year-old association, the Kenmore Foundation, has bought or helped acquire about three dozen Civil War sites in a dozen states so far. Such actions offer inspiration for other property-rights conflicts involving environmental concerns ranging from endangered species to old-growth forests to wetlands. The approach minimizes the need for consensus while allowing for the greatest expression of differing values.

CONCLUSION

"Virginia is nearly unique among the states in its environmental diversity. From the peaks of the Blue Ridge to the Atlantic shores, our state is among the most beautiful anywhere," writes, the local Fairfax County paper, *The Connection*. The challenge is to develop environmental policy that will reflect the diversity of the state. The components offered here -- devolution, risk analysis, incentive analysis, and property-based solutions -- can help the state of Virginia maintain and enhance its scenic and natural beauty, and at the same time, offer local residents the widest opportunity to express and pursue their environmental needs and wants.

About the Author

Dr. Jo Kwong received her Ph.D. from the University of Michigan, Ann Arbor, from the School of Natural Resources in the Resource Policy, Economics Program. Her dissertation topic was, "The Economics of Agricultural Land Preservation". Her Masters Degree is from the same university in Urban Planning. Dr. Kwong has two A.B. degrees from Brown University; one in Biology and one in Urban Studies. She currently holds the position of Director of Public Affairs and Environmental Research Associate at the Atlas Economic Research Foundation in Fairfax, Virginia. She is a Trustee for the Ohio River Valley Water Commission, an interstate agency of states bordering the Ohio River; the State Water Control Board, Commonwealth of Virginia; and the Virginia Conservation and Recreation Foundation, Commonwealth of Virginia.

ENDNOTES

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³ Interview with Dr. S. Fred Singer, Science and Environmental Policy Project, Fairfax, VA, January 8, 1997.

⁴ Wisconsin Policy Research Institute Report, "The Wisconsin Citizen Surveys: An Analysis of Public Opinion from 1988 to 1993, Milwaukee, WI, June 1994.

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⁶ This matter continues to generate conflict: For example, "on March 11, 1997, the D.C. Circuit Court of Appeals threw out the EPA regulation that would have imposed California's Low Emission Vehicle standards (i.e., electric cars) throughout the Northeastern United States. The new regulation exceeded the EPA's statutory authority, and is, therefore, illegal," writes Jonathan Adler of the Competitive Enterprise Institute in a March 17, 1997 *Washington Times* commentary.

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⁹ DeLong, James, "Privatizing Superfund: How to Clean Up Hazardous Waste," *Cato Policy Analysis*, December 18, 1995, note 27.

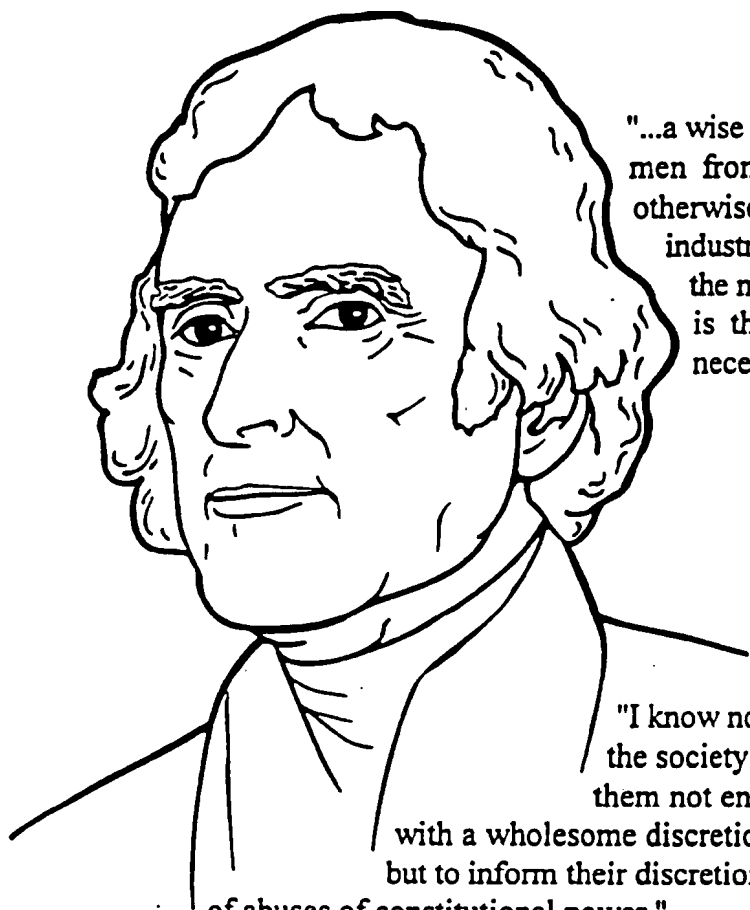
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¹² Marianne Lavelle, "Environmental Vise: Law, Compliance," *National Law Journal*, August 30, 1993, p. S8.

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"...a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities."

Thomas Jefferson -- 1801

"I know no safe depository of the ultimate powers of the society but the people themselves and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power."

Thomas Jefferson -- 1820

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