

WHY *LEARN*?

An Emerging Governance

Since the 1970s, America is increasingly following a system of governance that usurps power from the people and local government and transfers it to the state and federal government. This form of governance destroys the very principle that has made America the greatest nation in the history of the world. A principle based on certain God-given unalienable rights. Among these are “life, liberty and the pursuit of happiness” as penned by Thomas Jefferson in the Declaration of Independence.

This emerging governance ignores individual liberty as envisioned by our founders and enshrined in the Constitution of the United States. Instead, it rests on so-called public good or common good. In this model of governance, the enlightened state determines the public good through the force of law, including the use of property.

The Constitution of the United States also seeks the public good, but from a different perspective. The constitution is predicated on the belief that if every citizen seeks what is best for him or her, as long as no harm is done to someone else, the sum total yields the public good. In turn, individual liberty depends on the free ability to use private property in the “pursuit of happiness.” Because of this, James Madison emphasized that the proper role of government was to protect private property rights: “Government is instituted to protect property of every sort; as well as that which lies in the various rights of individuals.... this being the end of government, that alone is a just government, which impartially secures, to every man, whatever is his own.”

The emerging model of forced compliance has formed the basis of social and environmental laws in America since the 1970s. While these laws have helped to protect the environment, they are also causing a hemorrhage in individual liberties once taken for granted by all Americans, including property rights. Without private property, individuals are powerless to oppose any infringement on their rights due to government control over the fruits of their labor. Nowhere is this more apparent than in the old Soviet Union, where all property belonged to the state. No one could speak out against the government for fear they would lose their job or their family’s eviction by the local communist commissar.

Environmentalists claim that private property rights and greed are the root problem of pollution and environmental degradation. Yet, the worst pollution and environmental degradation occurs on public land, water, or air – not private land. Since no one “owns” the land, water or air, pride of ownership or sense of responsibility to care for these entities is lost. It is called the Tragedy of the Commons. Again, the worst examples of this phenomenon were the former Soviet Union and Eastern Europe where there was *no* private property, yet they had the worst environmental record in the history of mankind.

There is a way to protect the environment *and* the rights of private citizens. The U.S. constitutional model recognizes and uses the human trait of self-interest to better oneself. Unencumbered private property provides the catalyst to stimulate individuals to be creative and take risk in finding a better way, product, or service to meet a human need – including protecting

the environment. In the Constitutional approach, only laws and regulations that keep them from activities that clearly cause harm to their neighbors or their property would restrict property owners. If property is taken for the public good, the public pays just compensation. In this way, the local community can prosper by self-defining how to administer laws in their community.

Conversely, the emerging top-down form of governance places control in the hands of unaccountable unelected government bureaucrats. This, one-size, command and control model is especially true of federal laws implemented by federal agencies at the local level. Increasingly, it is also true at state and county levels as well

The stifling effect of federal control of property is enormous. While many things affect the wealth of a nation, a simple contrast between the western and the communist worlds is striking. The Western world has formal private property rights. The communist and former communist nations do not, or have only recently begun to obtain them. All property belongs to the government. Yet in the United States, a host of federal laws is systematically shifting the control of property rights from the private individual to the federal government.

The Endangered Species Act, wetlands regulations, the Clean Water Initiative and many other environmental laws have one thing in common: federal control of property rights. Federal control strips the value of property from local landowners. It is harming, even destroying the economic foundation of rural communities and counties. Tens of billions, perhaps hundreds of billions of dollars of property value has already been transferred from local citizens to the federal government via unnecessary “one-size fits all” regulation.

We need to protect the environment. However, anti-property rights activists use the “public good” to attack the basis for constitutional property rights. Since the 1970s, activist courts have been systematically ruling that the use of private property and “the rights of the individual” endanger the rights of all the people. Yet, why should the last owners of wetlands, endangered species habitat, beautiful scenery or many other environmental and social benefits, have to shoulder the entire cost of protection or provision when the problem was created by the activities of thousands of other people? Most Americans would say that they should not. Yet, that is exactly what is happening to tens of thousands of Americans.

Government intrusion into the right to own and use property under the Trojan horse of the “public good” is beginning to cause great harm to American citizens, and is undermining the very foundation that has made America the greatest nation in human history. LEARN (Local Environment And Resource Network) provides a way to return to the Constitutional model where private property is *protected* by government through law.

It is clear from a myriad of examples that the federal command and control model leads to abuse and sometimes corruption in government and a decline in the human condition while the Constitutional model yields freedom, prosperity and environmental protection. LEARN provides a way for local government to achieve the latter *within* existing federal, and state law.

How LEARN Works

The process is relatively simple, but seems overwhelming to the initiate because of the myriad of details to consider. Since the basis of LEARN rests on the principles of self-government, it is also foreign to most Americans, especially local elected officials. In other words, citizens and *elected* officials, not the bureaucracy, drive the process by finding ways to protect both the environment and their fellow citizens. Local citizens create a local resource or land-use committee initially. Its purpose is to develop and *recommend* a local natural resource or land-use plan to the local elected governing board. Cities and townships could also do it where state law allows it.

The plan, when developed, will consider how to implement federal environmental and other laws in a way that protects the local culture, custom and economy (called community stability) of the governing jurisdiction. It should include representatives from all segments of the culture from the local community. The committee is *not* comprised of the planning department, although a member of the planning department can be a member. Nor is the plan a comprehensive zoning plan unless required by law!

It is important that the citizens, not the planning department control the process. The education of most planners centers in command and control logic and will almost inevitably gravitate to government-controlled, forced compliance solutions that minimize private property rights and individual freedom. However, it is important to maintain communication with local planners to avoid conflicts with other local plans.

The committee first explains to the local board the purpose of the committee and plan. When acceptable, the *elected* officials appoint the committee to this responsibility thereby giving it legal standing. There may be a need to modify the purpose somewhat to satisfy the elected board. However, if the elected officials refuse to sanction the committee, then it is time to elect a new local governing body that is responsive to the people. Once appointed by the duly elected board of commissioners, the committee coordinates input from the citizens and builds its first plan. The initial plan does not have to be comprehensive if they must first address an immediate crisis. It is possible to develop a working first plan in a relatively short period. This plan will be ever changing and amended to accommodate newly arising issues.

Once the first plan is completed, citizens and the elected government review and provide input. After making changes, the local government accepts them by ordinance or resolution. Once they are accepted, the federal government *must* accept the elected government as joint partners in developing implementing regulations at the local level. The elected body can legally designate the resource committee as its representative to meetings of the federal agencies so elected officials do not have to be burdened with the task.

What is so powerful about this approach to local control is that it works! If a state receives funding under the National Environmental Protection Act (NEPA) then state agencies are required to follow the same procedure. When the local government has joint standing, experience has shown that the local government can be much more effective in protecting its citizens from federal and state mandates that negatively affect their citizens while meeting the intent of the

law.

The following *LEARN* workbook details how local government can successfully and legally attain joint standing with federal agencies. Examples of enormous success stories are also included. It should work for any form of local government as well.

Michael S. Coffman, Ph.D.
Executive Director