



Western  
Governors'  
Association

# Enlibra

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### **Enlibra: A New Shared Doctrine for Environmental Management and the Evolution of Environmental Policy in the West**

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*All mankind stands at a crossroads. One path leads to despair and utter hopelessness. The other, to total extinction. Let us pray we have the wisdom to choose correctly.*

*Woody Allen*

This durable saying is only a slight exaggeration over the typical environmental debate in the Western U.S. these days.

The collision of environmental policy and new environmental proposals with vested economic interests in the West has caused gauntlets to be thrown down all throughout the region over the last decade—by ranchers and farmers, miners and developers, environmentalists and elected leaders of every description. Low commodity prices driven down by the Asian flu and intense competition from abroad have only exacerbated the situation in recent years.

Efforts to address these very popular issues have fallen prey to a peculiar flaw in our political system—our inability to remedy policy when it is in need of repair. For in our system, it is easier for concerted minority interests to prevent policy from being enacted than it is for broad but unorganized majorities to enact it. And that's what our political system has been about for the past ten years, with only the Safe Drinking Water Act as the major environmental policy triumph. In the meantime, needed reforms, for example, of the Endangered Species Act and the Clean Water Act, among others, have been stalled as one interest or another prevents needed action.

This stalemate in Congress has left the Administration as the only players in national environmental policy-making. Of course, they are not operating from a weak position. In fact, protecting the environment is extremely popular to advocate as the public's position on climate change so clearly indicates. Therefore, using their rule-making authority, the US Environmental Protection Agency (EPA) and Department of the Interior, among others, have moved to implement existing legislation with a vengeance. For example, rule after rule is being promulgated to meet requirements on the Clean Air Act. EPA estimates it

will issue 89 rules on air toxics over the next two years, one after another, as quickly as they can be legally promulgated. This effort is consuming EPA's air quality management resources, at the same time major new National Ambient Air Quality Standards have been stalled by legal challenges and just as worldwide momentum toward reducing atmospheric carbon is building,

And all these problems are simply manifestations—in our sometimes comical and usually ponderous political world—of real environmental problems around the country. However comical and dimwitted our policy efforts appear to have become, the environmental situation they reflect is sobering and disturbing.

Carbon dioxide and other greenhouse gases are increasing in our atmosphere with, as yet, unclear consequences. The US supplied 1600 million metric tons of the stuff in 1990 and will supply over 30% more by 2010 unless we change our practices. This equals well over one quarter of the world total, though China will be closing on us rapidly. By comparison, the U.S. comprises less than some 5% of the world population.

Species are declining throughout the West with unclear consequences, save for the loss of the spiritual well being brought to us by wilderness and wildlife. For example, in the Great Plains over 144 species are in decline and many are about to be listed. Under our cumbersome Endangered Species Act, this is a sure sign we will probably lose many of them unless we can get the Act reformed.

Water quality is diminishing; EPA estimates that water quality in only 16% of our watersheds is good, while about a 21% are bad (that is, do not meet state and federal water quality standards), and another 26% are questionable.

Open space is being lost at a prodigious pace. Nationwide, we are converting over one million acres a year from farmland into subdivisions, shopping centers and parking lots.

And I can testify from my recent trip to Yellowstone National Park that congestion and sprawl are now features of our national parks as well as every major western city.

The list of environmental threats could go on for hours and I'm sure each of you could provide a detailed summary on some crucial environmental threat, ranging from endocrine disrupters to nuclear waste.

Clearly, we are beginning to see limits on the efficacy of our current approaches to protect and improve our quality of life, particularly for our children. In fact, our current approaches often don't appear up to the job. The situation resembles procurement in the information technology field, where the old, ponderous process to buy systems for public agencies precludes the partnering necessary to get the best results and takes so long that equipment and software are out of date by the time the system is up and running. Environmental policy faces the same dilemma as interests delay decisions seeking greater advantage and prevent policy from being adopted using the mechanisms of checks and balances perversely.

### ***Governors Get Engaged and Struggle with the Environment***

It is particularly disturbing to see these problems manifest themselves in the West, where scenic splendor and clean, open spaces have been the rewards for the often difficult circumstances endured by our rural residents. But manifest, they have become. And slowly but surely, the 1990's have become the decade of environmental awareness in the West, just as the late-1970's and early 80's were the years of the sage brush rebellion.

The Western governors have struggled with these dilemmas just as everyone else has. But being a day or more away from Washington, DC, has given them clear air and an opportunity to experiment without the skilled intervention of the Washington lobby machines from both ends of the spectrum. For those who dwell on the ends of the political spectrum, Washington is the answer to a dream. Power devoid of reality checks on the ground. Power that is rewarded for falling on your sword to see that nothing happens unless what happens is exactly the way you want it. Power contained within a square mile box to be targeted aggressively. With this situation so ripe for plunder and combat, interests routinely ignore what is happening in the wilderness even as they lobby to protect it or exploit it.

In 1990, in this policy shadow, the western governors began to grapple with environmental policy as we know it. They adopted a new strategy for dealing with issues. They scrapped the existing technique of launching scathing attacks at any threat to Western economic interests on warning. That strategy was a failure in terms of influence and was causing concern and regret among the governors themselves, because it didn't lead to solutions to the problems and simply helped prolong them. Instead, the Western governors adopted a new policy that was to have profound effects on themselves and their views. They decided to offer an alternative whenever they criticized a major policy proposal or raised a major issue with Washington. This strategy, of course, required analysis of a different sort and forced the governors to decide if they could really live with their ideas—for you never know what might happen once you have entered the idea business; someone might agree with you!

Under the strategy, a series of Western Governors' Association initiatives were launched to address environmental problems and find suitable and acceptable solutions that could be taken to Washington. Over the years, a new way of managing the environment took shape, patiently crafted in spite of setbacks. Another benefit began to emerge from these efforts. By crafting and testing a strategy it became apparent that some things could be done without Washington's blessing or at least, tacit approval of Washington's Western agents who fell prey to the same sentiments as the governors about better ways to manage the environment.

Meanwhile, the Congress was busy responding to 17 years of pressure and finally reauthorized the Clean Air Act in the Fall of 1990. In a fit of frustration and under intense pressure from the utility interests they crafted section 169 (b) which authorized regional visibility transport commissions and established the Grand Canyon Visibility Transport Commission. It was an effort to get the

regional haze problem out of the clutches of EPA's secretive operations in North Carolina (we call it EPA's area 51 at the Western Governors' Association) and into the clutches of the Western governors—who were known to be historically sympathetic with the utilities as engines of the West's growth and development.

Only days after President Bush stood on the rim of Grand Canyon, proclaiming the Clean Air Act Amendments of 1990 and especially the protection of such a scenic view, the Western Governors were meeting in Nevada, putting the finishing touches on their new strategy. Coincidence is alive and well in American politics!

A series of initiatives followed—experiments with partnerships among all interested parties. They were funded by various means, but usually by cajoling federal officials using new techniques including the "western fly-around." Admiral Watkins, the Secretary of Energy, and Bill Reilly, the Administrator of EPA soon were visiting facilities and sites in the remotest parts of the West where they would be greeted by locals and given a dose of Western ground truth from a variety of perspectives. No scripting necessary here!

The results were predictable. The Administration agreed that new mechanisms were necessary to deal with these issues that hadn't been understood in Washington. Water quality standards for a stream that only flowed part of the year, and sometimes only flowed when effluent from the municipal treatment plant was released did pose an unusual problem.

The Great Plains Partnership, the Partnership to Develop On-site Innovative Technologies, the initiative to develop a New Framework for Environmental Policy in the West, and the Park City Principles for Water Management in the West, all followed, as interests met to determine how to cooperate and fix the vexing natural resource and environmental problems facing the West. It was a quick and robust flowering of balanced, inclusive policy making, with Uncle Sam at the table rather than looking down from above. But who could know that November would bring a completely new cast of characters in Washington. Like all new casts in Washington, it was one more beholden to one end of the spectrum than the other. The partnerships were quickly ended, the funding was withdrawn, and a New Framework for Environmental Policy withered and died on the vine, despite the intervention of five western Democrat governors.

The Grand Canyon Visibility Transport Commission also came under fire, but its statutory underpinning allowed it to survive. And it became the hallmark project for the new strategy. On its coattails the governors' ideas would survive transition. The Commission became the model for the new way of doing business, even as it was inventing and testing it. Its organization and operations were guided by three simple instructions: it was to be balanced, open and inclusive. No interest would dominate the effort, all interests would be given the opportunity to be represented and all business would be conducted in the open. These simple instructions laid the foundation for trust building, elimination of denial, testing of data and ideas, and serious policy negotiation that led to the Commission's unexpected but highly successful conclusion. On June 10, 1996, it met at the Grand Canyon to unveil 11 major recommendations

on how to combat regional haze in the southwest. Its successor, the Western Regional Air Partnership or WRAP is now working to implement those recommendations, albeit without the same statutory authority.

### ***Governors Propose a New Approach***

You had to be there to see the synergy across parties and geography. It was in December, 1997, and the Western governors were in Seattle for their annual winter meeting, a working session where they prepare to deal with interstate issues that may arise in legislative sessions and Congress. Governor Mike Leavitt of Utah was describing the epiphany he had experienced as he prepared to give a speech on environmental policy at Chataqua, New York. He wanted this speech to summarize and advance all we had learned about environmental management in the West and he had consulted the Western Governors' Association staff as well as many others as he prepared his remarks.

Unfortunately, his daughter who had planned to join him in New York, had encountered flight problems and the resulting delay left Governor Leavitt at the airport, two hours from Chataqua, at 1:00 am, picking up his daughter. Governor Leavitt realized the 9:00 am speech was not going to work as planned. His delivery would be tired and stilted. After a brief nap, he went out to walk around the lake in the morning to clear his head and think through how he might best live up to the expectations of his hosts in spite of the overnight hassles.

Half way around the lake the idea of championing a new environmental doctrine came to him. To heck with all the details, hassles, and infighting of day-to-day environmental management under the current system. It was time to go over the top. To take the lessons learned from the Grand Canyon and other successes in the West and create and install a new way of doing business. We would begin by defining the underlining principles that had yielded success. In his mind he could develop several. And he would test them that morning.

After relating this story to his colleagues, the electricity in the air was palpable, as governors leaned into the table listening intently and signaling the Chair for recognition. Governor John Kitzhaber of Oregon concurred. In fact he had been working on the same idea as a way to propel his Oregon Plan for Salmon Recovery into general acceptance. He too had noted that successful environmental initiatives seemed to rely on similar strategies, and failures seemed to be missing the ingredients. One after another, the 14 governors related similar anecdotes and a New Shared Doctrine for Environmental Management in the West was born.

The result, a unanimous commitment to the new doctrine to guide natural resource and environmental policy development and decision making in the West. The doctrine is referred to as *Enlibra*, a new term meaning balance and stewardship. It is based upon eight principles, each of which is dependent upon the others. The integration of these principles is critical to their interpretation and the success of the new doctrine. The principles were aired before over 400 westerners at an Environmental Summit on the West, hosted by the Western Governors' Association in December, 1998. The recommendations from the

Summit were then reviewed word by word and crafted into a revised set of principles by an advisory committee of some 40 people representing diverse views and readopted at the 1999 annual meeting of the Western Governors' Association. The principles follow:

*1. National Standards, Neighborhood Solutions—Assign Responsibilities at the Right Level*

There is full acknowledgment that there are environmental issues of national interest ranging from management of public lands to air and water quality protection. Public processes are used to identify and protect the collective values of the Nation's public. No existing laws or identified legal rights and responsibilities are rejected. The role of the federal government is supported in passing laws that protect these values as well as setting national standards and objectives that identify the appropriate uses and levels of protection to be achieved. As the federal government sets national standards, they should consult with the states, tribes, and local governments as well as other concerned stakeholders in order to access data and other important information. When environmental standards have not been historically within the federal jurisdiction, non-federal governments retain their standard-setting and enforcing functions to ensure consideration of unique, local-level circumstances and to ensure community involvement.

With standards and objectives identified, there should be flexibility for non-federal governments to develop their own plans to achieve them, and to provide accountability. Plans that consider more localized ecological, economic, social, and political factors can have the advantage of having more public support and involvement and therefore can reach national standards more efficiently and effectively.

Governments should reward innovation and take responsibility for achieving environmental goals. They should support this type of empowerment for any level of government that can demonstrate its ability to meet or exceed standards and goals through locally or regionally tailored plans. The federal government should support non-federal efforts in this regard with funds and technical assistance. In the event that no government or community is progressing toward specific place-based plans, the federal government should become more actively involved in meeting the standards.

*2. Collaboration, Not Polarization—Use Collaborative Processes to Break Down Barriers and Find Solutions*

The regulatory tools we have been relying on over the last quarter of a century are reaching the point of diminishing returns. In addition, environmental issues tend to be highly polarizing, leading to destructive battles that do not necessarily achieve environmental

goals. Successful environmental policy implementation is best accomplished through balanced, open and inclusive approaches at the ground level, where interested stakeholders work together to formulate critical issue statements and develop locally based solutions to those issues.

Collaborative approaches often result in greater satisfaction with outcomes, broader public support, and can increase the chances of involved parties staying committed over time to the solution and its implementation.

Additionally, collaborative mechanisms may save costs when compared with traditional means of policy development. Given the often local nature of collaborative processes, it may be necessary for public and private interests to provide resources to ensure these processes are transparent, have broad participation and are supported with good technical information.

### *3. Reward Results, Not Programs—Move to a Performance-Based System*

A clean and safe environment will best be achieved when government actions are focused on outcomes, not programs, and when innovative approaches to achieving desired outcomes are rewarded. Federal, state and local policies should encourage "outside the box" thinking in the development of strategies to achieve desired outcomes. Solving problems rather than just complying with programs should be rewarded.

### *4. Science For Facts, Process for Priorities—Separate Subjective Choices from Objective Data Gathering*

Environmental science is complex and uncertainties exist in most scientific findings. In addressing scientific uncertainties that underlie most environmental issues and decisions, competing interests usually point to scientific conclusions supporting their view and ignore or attack conflicting or insufficient information. This situation allows interests to hold polarized positions, and interferes with reconciling the problems at hand. It may also leave stakeholders in denial over readily perceived environmental problems. This in turn reduces public confidence and raises the stridency of debate. Critical, preventive steps may never be taken as a result, and this may lead to more costly environmental protection than would otherwise be required.

A better approach is to reach agreement on the underlying facts as well as the range of uncertainty surrounding the environmental question at hand before trying to frame the choices to be made. This approach should use a public, balanced and inclusive collaborative process and a range of respected scientists and peer-reviewed science. Such a process promotes quality assurance and quality control mechanisms to evaluate the credibility of

scientific conclusions. It can also help stakeholders and decision makers understand the underlying science and its limitations before decisions are made. If a collaborative process among the stakeholders does not resolve scientific disagreements, decision makers must evaluate the differing scientific information and make the difficult policy choices. Decision makers should use ongoing scientific monitoring information to adapt their management decisions as necessary.

*5. Markets Before Mandates—Pursue Economic Incentives Whenever Appropriate*

While most individuals, businesses, and institutions want to protect the environment and achieve desired environmental outcomes at the lowest cost to society, many environmental programs require the use of specific technologies and processes to achieve these outcomes. Reliance on the threat of enforcement action to force compliance with technology or process requirements may result in adequate environmental protection. However, market-based approaches and economic incentives often result in more efficient and cost-effective results and may lead to more rapid compliance. These approaches also reward environmental performance, promote economic health, encourage innovation and increase trust among government, industry and the public.

*6. Change A Heart, Change A Nation—Environmental Understanding is Crucial*

Governments at all levels can develop policies, programs and procedures for protecting the environment. Yet the success of these policies ultimately depends on the daily choices of our citizens. Beginning with the nation's youth, people need to understand their relationship with the environment. They need to understand the importance of sustaining and enhancing their surroundings for themselves and future generations. If we are able to achieve a healthy environment, it will be because citizens understand that a healthy environment is critical to the social and economic health of the nation. Government has a role in educating people about stewardship of natural resources.

One important way for government to promote individual responsibility is by rewarding those who meet their stewardship responsibilities.

*7. Recognition of Benefits and Costs - Make Sure All Decisions Affecting Infrastructure, Development, and Environment are Fully Informed*

The implementation of environmental policies and programs should be guided by an assessment of the costs and benefits of different options across the affected geographic range. To best understand opportunities for win-win solutions, cost and benefit

assessments should look at life-cycle costs and economic externalities imposed on those who do not participate in key transactions. These assessments can illustrate the relative advantages of various methods of achieving common public goals. However, not all benefits and costs can be easily quantified or translated into dollars. There may be other non-economic factors such as equity within and across generations that should also be fully considered and integrated into every assessment of options. The assessment of options should consider all of the social, legal, economic and political factors while ensuring that neither quantitative nor qualitative factors dominate.

#### *8. Solutions Transcend Political Boundaries—Use Appropriate Geographic Boundaries for Environmental Problems*

Many of the environmental challenges in the West cross political and agency boundaries. For example, environmental management issues often fall within natural basins. These are often transboundary water or air sheds. Focusing on the natural boundaries of the problem helps identify the appropriate science, possible markets, cross-border issues, and the full range of affected interests and governments that should participate and facilitate solutions. Voluntary interstate strategies as well as other partnerships are important tools as well.

Crafting and gaining acceptance of the principles is only the first step. The Western governors have invited state, local and Native American leaders, environmental organizations, the private sector, Congress and the Administration to embrace the principles in their environmental and natural resources policy work and decision making. So far, over thirty different organizations ranging from the National Association of Counties, Western Region, to the City of Honolulu, have. And this is just the beginning, for the real test lays before us.

#### ***Conclusion***

Let me close with a challenge. As I said at the outset, all mankind stands at a crossroads. One path leads to despair, utter hopelessness and possibly, extinction. The other, to good health, unbridled opportunity, and a clean environment for ourselves and our children. With your leadership we will have the wisdom to choose correctly, for in my experience it is the experts in society who propel an idea into general acceptance. Just as the experts in the Grand Canyon process laid the foundation for compromise, acceptance, and environmental progress. I believe that you and your professional colleagues can help the western governors and other leaders make environmental protection and restoration second nature to all of us. And I believe that is what will be required to fulfill the ultimate promise of a sustainable future.