

Testimony for the House Subcommittee on National Parks, Forests and Public Lands

on

No More Standoffs: Protecting Federal Employees and Ending the Culture of Anti-Government
Attacks and Abuses

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Opening Statement

My name is Peter Walker, a professor of Geography and Environmental Studies at the University of Oregon. I personally observed the 2016 armed occupation of the Malheur National Wildlife Refuge in Harney County, Oregon. After the occupation I conducted research in Harney County for more than two years, including over 100 in-depth interviews with individuals representing all parts of the community. My observations are recorded in my book *Sagebrush Collaboration: How Harney County Defeated the Takeover of the Malheur National Wildlife Refuge*.

A lot can be learned from the Malheur Refuge occupation for preventing such incidents, and for safeguarding federal employees and enabling them to work constructively in rural communities.

The great majority in Harney County opposed the Malheur occupation and rejected the militants' plan to launch an anti-federal government revolution from Harney County. (I use the word "militants" because they used armed force and military-style tactics to achieve a radical political goal.) The situation was explosive, and if the community had heeded the militants' call, the Malheur occupation almost certainly would have ended with many lives lost.

Harney County rejected the militants' call to revolution in large part because the community had invested for decades in building collaborative approaches to solving precisely the kind of resource management issues the militants' said could only be resolved through armed force. In the past there *had* been a lot of hostility between the community and federal agencies. But by the

end of the 1990s, Harney County was tired of fighting—and especially tired of litigation. The existing system was failing to produce outcomes that almost anyone wanted; and when people knew regulations would be coming, they wanted to get ahead of the process and make sure local voices would be heard. Farmers, ranchers, environmentalists, tribes, and federal, state and county workers intentionally built a culture of collaboration. The community bet that better solutions could be found by building relationships and really *listening* to each other—humanizing those with whom they might see things differently. For decades, over countless one-on-one phone calls and cups of coffee at kitchen tables, the community created their *own* ways to solve problems. When outside militants proposed violent confrontation, the community had a better way.

Federal employees were central in this story. Ironically, the outside militants had no idea Harney County was recognized nationally as something of a poster child for collaborative approaches, including building positive relationships with federal workers. The militants believed vilifying and harassing federal employees would rally local support for their cause. The militants' leader later said he never met a Bureau of Land Management (or, by implication, *any* federal) employee who is a “good person.” By 2016, most people in Harney County just did not see it that way. Through collaboration, federal employees were contributing to better problem-solving in large part by making themselves more integral parts of the community, and by listening. No longer just uniforms and badges, federal employees were friends and members of the community. And Harney County does not like members of the community being harassed. When the Malheur occupation ended, ranchers with allotments on the Malheur Refuge held a dinner to honor the U.S. Fish & Wildlife Service employees who had borne much of the harassment from outside militants, to reaffirm that the federal workers are valued members of the community.

As a nation we are enormously fortunate that by chance the militants chose Harney County. The community literally told the militants to “Go home.” We should see the relatively peaceful outcome of the Malheur occupation as hopeful evidence that conflicts between rural communities and federal agencies can be minimized, and in at least some cases win-win solutions can be found that defy the divisive culture that afflicts our nation today. But Harney County is much like many other places; the experience of collaboration in Harney County demonstrates principles that *can* be applied in other rural communities.

That is my most important message: in Harney County I saw that endless division and conflict do not have to define who we are as a nation and how federal employees work in our communities. There *are* other ways. America *can* do better. And Harney County proved it. Thank you.

Background:

This testimony addresses the armed occupation of the Malheur National Wildlife Refuge in Harney County, Oregon, by armed anti-government militants in January and February 2016. On January 2, 2016, somewhere between 10 and 20 armed individuals seized the wildlife refuge and called on social media for “thousands” more to come, with their arms. At the peak, only an estimated 50 individuals occupied the refuge, though several hundred supporters from outside the area stayed in motels and other facilities in nearby Burns, Hines, and other locations. Although the occupiers claimed that their actions were a “peaceful protest,” they also stated their readiness to die, and that they would respond with armed force if law enforcement attempted to intervene. For twenty-four days law enforcement took no direct action against the occupiers (the wildlife refuge is in a remote area where the occupation represented little or no threat to human life). On January 26, 2016, most of the main leaders of the occupation were arrested while attempting to travel in two private vehicles from the wildlife refuge to the town of John Day, Oregon, in nearby Grant County. One militant, after attempting to flee a traffic stop and being stopped at a roadblock, was shot and killed by Oregon State Police after failing to comply with police orders and then reaching for a handgun. All but four of the remaining occupiers fled the wildlife refuge in the following hours, with the last holdouts surrendering on February 11, 2016.

The militants publicly stated that the purpose of their takeover was to secure the release of two local ranchers from imprisonment for arson on federal land, and to “give back” the refuge land to the “rightful owners,” who they identified as “ranchers, loggers, and miners” (notably excluding the local Burns Paiute Tribe, who have the only historically irrefutable claim to being the original “owners” of the land that makes up the refuge). The takeover attracted worldwide media attention. Outside the media spotlight, however, the militants acknowledged a more ambitious goal: to make Harney County the first “federal-free” county in the American West, serving as an example for other communities that they hoped would follow Harney County’s lead. The militants based their political ideology on a religiously-inspired interpretation of the United States Constitution, in which the federal government is seen to have little or no jurisdiction in states outside Washington DC. In the militants’ view, the highest authority in the land is the county sheriff—whose authority supersedes even the President of the United States. This interpretation is similar to the anti-federal *posse comitatus* movement of the 1970s, as well as the modern “sovereign citizen” movement, although the leaders of the occupation attributed their inspiration to Biblical interpretation. The armed seizure of the Malheur National Wildlife Refuge, along with the 2014 armed standoff against federal employees and law enforcement at

Bunkerville, Nevada (led by the same Nevada-based family) represented a major, armed escalation of the anti-federal public lands “sagebrush rebellion” of the 1970s and 1980s.

The militants’ plan to overthrow the federal government hinged on persuading local ranchers to symbolically repudiate their federal grazing contracts, followed by a declaration that the ranchers are the true owners of the land. The militants promised that seized federal lands would be “defended” by armed “Patriots” (referred to locally as “the militia”). The occupiers arranged a ceremony, held on January 23, 2016, at the Malheur National Wildlife Refuge headquarters, at which the occupiers pleaded for local ranchers to publicly renounce their federal grazing contracts and to declare their grazing allotments to be their own private land. However, no Harney County ranchers participated in the event (only one rancher, from New Mexico, did so).

In the nearby communities of Burns and Hines (the main population centers of Harney County) militia aligned with the armed occupiers at the Malheur Refuge engaged in a campaign of harassment of federal employees and local law enforcement officers who refused to cooperate with the occupiers. The occupiers also attempted to establish a new de facto county government in the form a “committee of safety,” which the militants formed with a small group of local supporters. The goal was to seize control of local government and to intimidate federal workers.

The community of Harney County overwhelmingly rejected the militants’ goals and in particular their armed methods. No public opinion surveys were conducted at the time, but in my observations it was clear that the majority of the community opposed the militants. On January 19, 2016, for example, the armed occupiers arrived unannounced at a community meeting in the Burns High School gym. It was the only occasion during the occupation when militants met with a cross-section of the community. The county judge stood and told the militants to “Go home,” and the great majority in the room then stood and chanted “Go home, go home, go home.”

The impression that the majority in the community opposed the militants was supported later that year in a series of local elections in which local “pro-militia” and “anti-militia” candidates filled the election roster. “Anti-militia” candidates for county commissioner won a total of about 80 percent of the primary vote, and the “anti-militia” winner of the general election won with more than 95% support. In June 2016, a recall against the county judge, seen widely as a referendum on the militia occupation, failed—with more than 70 percent opposing the removal of the anti-militia county judge. Therefore it can be said with confidence that 70-80 percent of the community was “anti-militia.” However, the elections were widely interpreted as referendums on the anti-government ideology represented by the militants, *not* their armed methods. When I

asked local people how much of the community they believed supported the anti-government ideology *and* the militants' armed methods, the estimates of support ranged from 3-10 percent. In addition, much of the local support for the outside militants appeared tied to efforts to release the pair of local ranchers in federal prison for arson; when those ranchers received a presidential pardon in July 2018, local support for the outside militants appeared to all but disappear.

It is important to note that while the media at the time often described the militants as ranchers, in fact only one of the outside militant leaders, and only two active local supporters, could even plausibly be described as working ranchers. The overwhelming majority of outside militants and local supporters had no direct interactions with federal resource management agencies. The occupation of the Malheur National Wildlife Refuge was primarily an ideologically-based anti-federal government political movement, not a movement of ranchers, loggers, or other resource users. Among the outside militants, including members of the self-declared "Patriot" movement, there was strong representation of broader racist and xenophobic political groups that had for decades specifically adopted the position of promoting a "second American revolution." While the main leaders of the Malheur Refuge occupation did not come from this broader political movement, the "Patriot" groups that supported the occupation appeared to be attracted by the armed, revolutionary aspects of the "hard stand" at the Malheur Refuge.

Impacts on Malheur National Wildlife Refuge:

Although the Malheur National Wildlife Refuge has today mostly recovered from the disruptions associated with the militant takeover in January and February 2016, the disruption at the time was significant and continues to some extent to the present. In addition to the immediate interruption of operations during the occupation (from January 2, 2016 to February 11, 2016), the occupiers left behind extensive physical damage (including disturbance of Native American cultural artifacts), and the refuge itself became the site of an extended criminal investigation. Other federal agency offices, including the U.S. Bureau of Land Management and U.S. Forest Service offices in nearby Burns were also closed for extended periods due to concerns for employee safety. Staff were able to return to work at the MNWR headquarters using temporary structures by the end of February 2016; but with extensive vandalism to important files and physical damage to buildings, the refuge headquarters remained closed to the public for more than a year, fully reopening in March 2017.

The impacts of the militant occupation of the MNWR also included the very substantial disruption of the lives of refuge staff and loss of long-term institutional knowledge. At the time

of the occupation, most staff were evacuated out of Harney County because of safety concerns. The result was that staff had to leave their personal and professional lives behind while hostile occupiers searched through their private and professional information left behind at the refuge. Staff felt violated, and some perceived their physical safety to be in danger. Well after the occupation the traumatic effects remained deeply felt by some employees. Of the 16 full-time employees at the refuge at the time of the occupation, four resigned from their positions at least in part because of the trauma they experienced. In the near term the impacts on the operation of the refuge were significant, as the departing employees possessed highly specialized knowledge accrued over decades of service. In some cases, because of organizational changes within the U.S. Fish & Wildlife Service, vacated positions were not re-filled with on-site staff.

Despite the very substantial disruption and losses of expertise, the MNWR displayed remarkable resilience, in part because of its status as one of the gems in the National Wildlife Refuge system. After the occupation, questions arose as to whether qualified professionals would be willing to take positions at the Malheur Refuge so soon after the traumatic events of the 2016 takeover. Quickly, however, the vacated positions were filled with qualified professionals. Some of the new employees expressly stated that they were attracted by the excellent reputation of the Malheur Refuge as a “success story” and its innovative efforts to work constructively with the community through collaborative processes such as the Malheur Comprehensive Conservation Plan, coordinated by the local non-profit High Desert Partnership.

Collaboration and the High Desert Partnership:

The Malheur National Wildlife Refuge and the community of Harney County displayed remarkable resilience despite the extraordinary disturbances associated with the militant occupation in January and February 2016. In large part this resilience can be attributed to an investment the community and the refuge had made over the previous two decades in developing collaborative ways to promote deep engagement of all stakeholders in decision-making for natural resource management. Exhausted by legal fighting and resource management failures, in the late 1990s and early 2000s a small group of individuals including local ranchers, federal and county employees, conservation groups and others set out to find a different way forward.

Much of this effort to promote deeply-engaged stakeholder collaboration was organized by a remarkable locally-based non-profit organization called the High Desert Partnership. Formally established in 2005, the HDP focuses on building relationships among members of the community who represent different perspectives but are not firmly invested in specific outcomes.

By building these relationships, the HDP strives to find innovative, win-win solutions to social-ecological problems in a manner that avoids adversarial interactions. As a private nonprofit, the HDP is relatively free to pursue paths not directly mandated or constrained by government rules.

The decision to create the HDP was motivated by conflict-ridden, failed interactions in the past. Local rancher Gary Marshall and Malheur National Wildlife Refuge manager Chad Karges knew the refuge would be required to begin developing a Comprehensive Conservation Plan (CCP) by 2010, and they set out to study collaborative methods and relationship-building to be ready for the CCP process. They invited participation from outside stakeholders including conservation groups. Marshall and Karges knocked on doors and shook hands throughout the local community to build the relationships and trust needed to persuade a community more accustomed to conflict with the Malheur Refuge to give the new non-adversarial, collaborative approach a try. The High Desert Partnership does not do projects; it builds relationships and facilitates conversations with the intent to find collaborative win-win solutions to problems that might otherwise result in conflict and litigation. The group does not advocate particular outcomes; it supports dialogue in pursuit of positive outcomes for the ecology, economy, and community.

The signature accomplishment of the HDP's approach was its establishment of a diverse working group of about thirty stakeholders to craft the 2013 Malheur Comprehensive Conservation Plan, which detailed the goals and methods for managing the refuge for the following fifteen years. After three years of dialogue, the working group produced a 779-page document that became what the HDP describes as the nation's first collaboratively created comprehensive conservation plan. Given the contentious relations between the Malheur Refuge and the local community in the past, the fact that local ranchers and farmers, the Burns Paiute Tribe, and county government, as well as conservationists and agency officials, all endorsed the plan was an astonishing achievement. Possibly the most powerful evidence of success is the fact that the Malheur CCP was the first plan of its scale in Harney County for many years that was not sued. Then-refuge manager Chad Karges observed, "No one thought it could be done." After the plan was approved, the CCP working group continued meeting to collaboratively decide on necessary adaptations in the plan's implementation.

The High Desert Partnership has become more than just an institution, it has become part of the life and culture in Harney County—a proactive, non-adversarial, relationship-based approach sometimes described locally simply as "the Harney County way." The HDP itself has expanded to support a range of initiatives including but not limited to natural resource management—focusing on management of wetlands and forests, but also a wildfire collaborative as well as

initiatives to support local youth and business entrepreneurship. The “Harney County way” has also spread to many other local community-based initiatives beyond the HDP, including habitat management for sage grouse and a major local groundwater planning initiative.

Recommendations for federal policy:

The existence of collaborative organizations in Harney County was crucial in enabling local residents to reject rhetoric by outside militants that the federal government—embodied in local federal employees—represents “tyranny” and “abuse.” The primary goal of local collaborative organizations in Harney County has been to build relationships, communication, and trust between stakeholders. Through their participation in collaboratives, federal employees were able to build goodwill and trust within the local community. Collaboratives provide a neutral, safe environment where residents can come to know federal employees as individual people doing the best they can, sometimes under difficult circumstances. Mutual trust, respect, and even friendships are often a direct result. When federal employees become humanized in this way, anti-government rhetoric—including efforts to threaten and harass federal workers—is unlikely to find a receptive audience. As one rancher observed to me, “Collaboration is what inoculated us from the [militant] disease.”

This is a crucial observation. Almost everyone I spoke with in Harney County after the 2016 Malheur Refuge occupation agreed on one thing: if the occupiers had attempted the same kind of standoff against federal agencies and staff in a different community that had *not* invested in building collaborative relationships, the outcome would likely have been far worse—including the very real possibility of a bloodbath that clearly some of the occupiers wanted. Such an event that would have likely inspired further anti-government violence for decades to come.

If collaboration is one important way to build better relationships between federal agencies and local communities, an important question is how such initiatives can be promoted at a wider scale. The experience of collaboration at the Malheur National Wildlife Refuge represents a very important opportunity. At a time when this country has seen unprecedented polarization, the community in Harney County came together to find common ground on this historically conflicted landscape. The success of this project matters because at a time when Americans are often cynical about reaching across political, intellectual, social, environmental and economic divides, Harney County as well as outside stakeholders intentionally chose to take a different path and have maintained that resolve in the face of unprecedented challenges.

In some ways the development of such approaches depends fundamentally on *local* initiative and individual personalities. Almost by definition these are things that the federal government cannot provide. This does *not* mean there is no constructive role for federal government in promoting such approaches. Federal government can play an important role in encouraging the growth of such initiatives by reducing barriers within federal agencies that may inhibit the development of local collaboratives, and by supporting initiatives with high potential or proven records of encouraging effective collaborative resource management.

Federal policy to support collaboration:

Reducing institutional barriers

In the example of the 2013 Malheur Comprehensive Conservation Plan, the initiative that led to the creation of a successfully collaboratively created management plan required deviation from usual federal agency policy by allowing federal managers at the local level to draft a plan through a stakeholder process that encouraged input from all interested parties from the very *beginning* of the planning process. This method of engaging the public departs from standard procedures in which agency staff draft a plan and put it out for public input near the end of the process. The collaborative approach initially met substantial skepticism from federal managers above the local level, who were concerned about delegating to the local level too much control over the planning process. In the case of the Malheur Refuge, local managers had to go to considerable effort and even put their professional careers at risk to persuade higher-level managers that the locally-based collaborative approach could produce a sound plan in compliance with all federal standards. Drawing inspiration and confidence from the positive outcome at the Malheur Refuge and other successful collaborations, federal government can facilitate local collaboration by reducing policy barriers and enabling local managers to engage in promising collaborative initiatives without unduly jeopardizing their careers.

In addition, federal policy can be modified to support the very important challenge of sustaining collaborative initiatives once they are established. Harney County's High Desert Partnership, for example, faces the challenge of recruiting future managers at the Malheur National Wildlife Refuge who understand and are committed to the collaborative approach. Ensuring that refuge leadership (as well as agency leadership at USFWS and the Department of Interior) remains supportive of the collaborative efforts will be crucial. As transitions occur, special care will be needed to ensure that new personnel are truly steeped in collaboration and committed to

continuing the work that is underway. This is an important and rare skill, and new leadership should have extensive demonstrable experience working within this type of framework.

Federal policy can also encourage collaboration by reducing career advancement policies that in effect encourage frequent relocation. Successful collaboration requires building relationships of trust in federal employees. Relationships of trust tend to develop over extended periods of time, as federal employees become recognized as members of a community. Many of the federal employees I spoke with in Harney County complained that advancing their careers within the federal agencies often requires relocation. Personnel turnover is inevitable in large agencies, and successful collaboratives can and do cope with changes in federal agency staff. However, such changes can slow down or alter the momentum of collaborative efforts, and the federal government should re-consider personnel policies that may force agency staff to choose between advancing their careers and developing the kind of longer-term ties to local communities that enhance their capacities to engage in effective local collaborations.

In addition, I was told by local federal employees that agencies could do more to encourage staff to engage in community activities, including collaboration. Some employees expressed concern that employee engagement with local community life is not fully encouraged by agency management. While engagement in community life during non-working hours is obviously up to the individual employee, federal agencies should consider efforts to communicate to staff that within appropriate guidelines such local engagement is allowed and encouraged.

Greater flexibility in funding

Higher levels of government discretionary funds and flexibility in funding requirements could be of great value in helping collaborative organizations to operate sustainably and effectively. One challenge for collaborative organizations is that by definition they cannot be funded by membership fees—all stakeholders must be equally welcome and able to participate in the collaborative process, no matter their financial status. In practice this means that participation must be free for all those who wish to participate. This creates obvious financial challenges that can at least in part be addressed by federal policy.

In Harney County, the non-profit High Desert Partnership provides a good example of the complex funding challenges. The HDP does not directly engage in problem-solving projects but instead helps to facilitate the conversations and relationship-building that are essential for a wide

range of other more project-oriented initiatives (from wildfire and wetlands management to youth development). This model, while proven successful in terms of positive local results, poses funding challenges because many grant-making institutions, both public and private, tend to steer their funding streams toward specific problem-solving rather than collaborative capacity-building. In addition, because the mission of the HDP is to be a neutral party, there is great sensitivity to appearing to be financially beholden to any specific outside interests, especially those that might be perceived as having particular political agendas.

Presently the HDP is funded through a complex and shifting mix of state and federal support, grants from private foundations, and private donations. Private funding, whether through foundations or individual donations, is an important part of the mix but tends to be unpredictable, posing substantial challenges to building and maintaining organizational capacity. State and federal funding poses its own challenges including reporting requirements and constraints on the flexibility of how funds can be spent. While fully recognizing the importance of accountability and compliance with existing government policy (for example, Federal Advisory Committee Act requirements), collaborative organizations by definition function differently and do not necessarily conform to conventional practices, creating problems of “fit” between agency funding requirements and the flexibility needed to make the collaborative model effective. It is important to note that collaboration is very different from some other forms of community involvement, such as Resource Advisory Councils. Whereas the RACs serve as sounding boards for existing or proposed policies put forward by agencies, collaborative organizations such as the HDP build management plans directly from the local community. HDP staff observed to me that at times they are questioned as to why they should receive funding when other mechanisms for public input such as the RACs are already in place. These are both valuable approaches, but they are very different and they should be seen as complementary rather than redundant.

In addition to facilitating funds to support collaborative processes, the federal government should consider greater investment in on-the-ground implementation. Many collaborative organizations are getting close to large scale implementation of projects. Too often federal agency leadership appears satisfied with collaboration as an end unto itself, but ultimately the value of collaboration must be measured by its ability to deliver substantive improvement on the ground. There exists substantial public skepticism about these collaboratives because they can be seen as diversions that consume a lot of time and energy but fail to deliver outcomes. The ability to maintain collaboration in Harney County and to inspire other similar efforts ultimately will depend on the ability to demonstrate that collaboration delivers results on the ground that exceed what would have been accomplished under more tradition conflict driven pathways.

Changing perceptions of federal employees

The militants who occupied the Malheur National Wildlife Refuge in 2016 failed in large part because they assumed that the deep hostility they held toward federal government and federal employees was shared by the majority of people in Harney County. Thanks partly to Harney County's long-standing effort to build a culture of collaboration, that assumption proved largely false. Although there are certainly tensions between some federal employees and local residents, I was told over and over that Harney County experienced a sea change from the attitudes prevalent in the 1970s-1990s, when animosity between federal employees and the community ran deep. Today, federal employees are more commonly seen as neighbors and friends. And in many cases, federal employees are themselves members of local families.

Friction does, however, still exist, and more can be done to break down unnecessary barriers. Federal government can help break barriers between federal employees and local communities with modest policy shifts. For example, I was told that there are simple things that can be done such as allowing federal employees to work more often without uniforms. Uniforms create psychological separation, and contribute to seeing agency employees as tools of government power rather than as people. One rancher observed that when his daughter, who was born and raised in the community, began working for the Bureau of Land Management and put on an agency uniform, she found friends she had known all her life treated her completely differently, as if she was not part of the community, not a friend who cares—not even as a person at all.

The history of uniformed federal resource agents dates to the earliest period of federal forest management, when forests were literally patrolled by soldiers. Today, when tensions between federal government and some communities are already too high, it may be time to re-examine anachronistic policies that invoke notions of a war between government and its people. Such notions are all too easy to exploit by those who seek to kindle an *actual* war between the federal government and the people.