

C O M M E N T

Whither Public Participation in Federal Land Management? Replicating Homegrown Innovations in Shared Problem Solving

by Matthew McKinney

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The Donald Trump Administration's initial approach to federal land policy raises some long-standing, fundamental questions about the role of public participation and intergovernmental coordination in federal land management.¹ Consider just a few examples:

- In March 2017, the U.S. Congress and the Administration eliminated the Bureau of Land Management's (BLM's) Planning 2.0, the planning rule that called for greater public participation, collaborative problem solving, and landscape-scale approaches to resource management.²
- In May, Secretary of the Interior Ryan Zinke "suspended" the work of more than 200 advisory panels, including 38 resource advisory councils in the American West, just before he started his review and tour of various national monuments.³

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1. On this same topic, see Michael C. Blumm and Olivier Jamin, *The Trump Public Lands Revolution: Redefining "The Public" in Public Land Law*, 48 ENVTL L. 2 (2018).
2. Pub. L. No. 115-12 (2017).
3. *Interior Halts Agency Advisory Groups: May Start Over*, PUB. LAND NEWS, May 19, 2017, at 4-5. The suspension was lifted in late November 2017. See Dennis Webb, *BLM Advisory Councils Are Free to Meet Again After Initial Review*, GRAND JUNCTION SENTINEL (Nov. 20, 2017).

- Also in May, Secretary Zinke effectively snubbed the tribal commission created to oversee Bears Ears National Monument during his visit to the monument.⁴
- In August, the Secretary, much to the chagrin of nearly everyone other than the resource development community, announced a major overhaul of plans to conserve the greater sage-grouse, plans that were the product of an unprecedented collaborative process among federal and state governments.⁵

Whether these and other examples are intentionally designed to limit public participation and intergovernmental coordination, or whether they are collateral damage from the Trump Administration's priority for energy and natural resources development over conservation, recreation, and other uses of federal public land and resources, they collectively suggest that it is time to rethink our approach to public participation (as well as intergovernmental consultation) in federal land management.⁶ They build on and

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4. Darryl Fears, *As Zinke Listens in on the Monumental Divide at Utah's Bears Ears, Natives Feel Unheard*, WASH. POST, May 14, 2017.
 5. See Report in Response to Secretarial Order 3353 (Aug. 4, 2017); Press Release, U.S. Department of the Interior, Secretary of the Interior Ryan Zinke Statement on Sage Grouse Report (Aug. 8, 2017); Tay Wiles, *Interior Overhauls Sage Grouse Conservation*, HIGH COUNTRY NEWS, Aug. 24, 2017. Ironically, while Zinke and the Trump Administration are voiding and avoiding meaningful intergovernmental coordination with local, state, and tribal governments, several counties throughout the American West are resurrecting an obscure federal law that federal land management agencies must "coordinate" and align their management practices with local governments that have adopted a local land use plan and policy. See, for example, Amanda Peacher, *Crook County Wants Local Voices to Have More Weight in Public Lands*, OREGON PUBLIC BROADCASTING (Nov. 7, 2017); Editorial, *Coordination Isn't Control: Oregon Counties Assert Authority Over Federal Lands*, THE REGISTER-GUARD (Nov. 14, 2017).
 6. For a recent review of the trials and tribulations of intergovernmental coordination on federal land management, see Michael C. Blumm & James A. Fraser, *Coordinating With the Federal Government: Assessing County Efforts to Control Decisionmaking on Public Lands*, 38 PUB. LAND & RESOURCES L. REV. 1 (2017).

reinforce a broader social and political conversation about the future of federal public land and resources.

For the first time in a long time, federal land policy was part of both Democratic and Republican presidential political party platforms in 2016.⁷ The Western Governors' Association 2016/2017 Chairman's Initiative, led by Montana Gov. Steve Bullock, focused on national forest and rangeland management.⁸ And on any given day, newspapers and social media in the American West highlight issues related to wildfire, recreational tourism, habitat connectivity, energy development, national monument designations, and calls for the transfer of federal lands to states.

The current public and political attention to federal land policy in the American West is neither surprising nor novel. Federal public lands (not including state or tribal lands) are one of the defining features of the American West, and significantly influence the region's economies, communities, and culture.⁹ They account for 28% of all land in the United States and 47% of the American West. More than 90% of all federal land is found in the 11 westernmost states and Alaska. The U.S. Forest Service and BLM administer about 34% of the western landscape, including almost 85% of Nevada; more than 50% of Idaho, Oregon, and Utah; and more than 40% of the land in four other western states.

Given the prominence of federal lands in the West, it is not surprising that westerners have debated the appropriate use, management, and even ownership of these lands since they were first established.¹⁰ This debate played out in different ways from 1900 through the 1960s, emerged again in the 1970s under the banner of the "Sagebrush Rebellion," then in the 1990s as the "county supremacy movement," and most recently as the federal lands "transfer movement."¹¹

7. The Republican Party's natural resources agenda can be found at GOP, *Republican Platform—America's Natural Resources: Agriculture, Energy, and the Environment*, <https://www.gop.com/platform/americas-natural-resources/> (last visited Nov. 1, 2017). Among other things, it states that "Congress shall immediately pass universal legislation providing for a timely and orderly mechanism requiring the federal government to convey certain federally controlled public lands to states." By contrast, the Democratic Party platform states that "Democrats believe in the conservation and collaborative stewardship of our shared natural heritage. . . ." 2016 DEMOCRATIC PARTY PLATFORM 29 (2016).

8. See News Release, Western Governors' Association, Montana Gov. Bullock Announces Workshops for Western Governors' National Forest and Rangeland Management Initiative (Aug. 16, 2016), <http://westgov.org/news/montana-gov-bullock-announces-workshops-for-western-governors-national-for>.

9. See WALLACE STEGNER, *THE SOUND OF MOUNTAIN WATER* 33 (1969); HEADWATERS ECONOMICS, *WEST IS BEST: HOW PUBLIC LANDS IN THE WEST CREATE A COMPARATIVE ECONOMIC ADVANTAGE* (2012); ROSS W. GORTE ET AL., CONGRESSIONAL RESEARCH SERVICE, *FEDERAL LAND OWNERSHIP: OVERVIEW AND DATA* (2012).

10. DANIEL KEMMIS, *THIS SOVEREIGN LAND: A NEW VISION FOR GOVERNING THE WEST* (2001).

11. The ideological rationale underlying this sustained debate over "who" should own and manage public lands has been remarkably consistent: local people should have substantial authority over these lands because they use them regularly and understand them better than anyone else. Notwithstanding the legal, political, and economic arguments against the transfer of federal lands to states, this movement does not appear to be going away any time soon. For a review of the legal arguments for and against the so-called transfer movement, see ROBERT B. KEITER & JOHN C. RUPLE, WALLACE

This historical narrative not only highlights enduring tensions and acute conflicts over federal land management, but also reveals that debates over federal land policy revolve around three related sets of questions.¹² First are questions of *purpose*: What are the objectives, priorities, or uses for which public lands should be managed? How should resources be allocated? Second are questions of *process*: Who makes what decisions? And what role do citizens, stakeholders, experts, tribes, and local elected officials play in making decisions and implementing outcomes? The third set of questions revolves around *jurisdiction*, particularly the question of whether the federal government should retain ownership and management, or whether there are better alternatives.

These questions overlap, because those who control the decisionmaking process determine what constitute acceptable uses. In this respect, federal land policy and the practice of democracy are fundamentally linked. As explained by Daniel Kemmis in *This Sovereign Land*, public lands exemplify democracy in two important ways: by allowing equal access to federal lands and resources for all Americans, and by including all Americans in the decisionmaking processes that determine how these lands are managed.¹³ In light of these geographic, historical, and political imperatives, it appears that we are not likely to effectively resolve issues of purpose and policy until we create more effective democratic processes to bring together people representing diverse interests with the best available information.

The core argument of this Comment is that, despite the current political climate and its impact on public participation and intergovernmental coordination, there are a number of innovative and effective efforts in shared problem solving (commonly referred to as collaboration) emerging organically across the landscape. The challenge, or better yet the opportunity, facing people who care about federal land and resources is twofold: first, how we can promote and support these homegrown efforts, harvest and share lessons, and evaluate the impact of these efforts relative to other approaches; and second, how we can replicate and integrate the underlying principles and dynamics of these more informal, collaborative forms of shared problem solving into the formal decisionmaking processes that govern federal land management. In sum, how can we move from the conventional approaches to public participation that revolve around citizens and stakeholders providing "input and advice" to a system that puts a premium on "shared problem solving"?

STEGNER CENTER FOR LAND, RESOURCES, AND THE ENVIRONMENT, *THE TRANSFER OF PUBLIC LANDS MOVEMENT: TAKING THE "PUBLIC" OUT OF PUBLIC LANDS* (2015); KRISTINA ALEXANDER & ROSS W. GORTE, CONGRESSIONAL RESEARCH SERVICE, *FEDERAL LAND OWNERSHIP: CONSTITUTIONAL AUTHORITY AND THE HISTORY OF ACQUISITION, DISPOSAL, AND RETENTION* (2007); and John D. Leshy, *Unraveling the Sagebrush Rebellion: Law, Politics, and Federal Lands*, 14 U.C. DAVIS L. REV. 317 (1980).

12. Two notable books, one focused on the Forest Service and the other on BLM, recognize this basic distinction. See JULIA M. WONDOLLECK, *PUBLIC LANDS CONFLICT AND RESOLUTION: MANAGING NATIONAL FOREST DISPUTES* (1988), and JAMES R. SILKEN, *THE NATION'S LARGEST LANDOWNER: THE BUREAU OF LAND MANAGEMENT IN THE AMERICAN WEST* (2009).

13. KEMMIS, *supra* note 10.

After clarifying the distinction between conventional approaches to public participation and shared problem solving in the next part, this Comment features the “Crown of the Continent” (COTC) region as a case study in homegrown approaches to shared problem solving. The final part of this Comment focuses on two general strategies for replicating the lessons of informal, collaborative approaches into the formal decisionmaking system that governs federal land and resources: first, to foster innovations within the existing legal and institutional system; and second, to begin experimenting with alternatives to the established decisionmaking system.

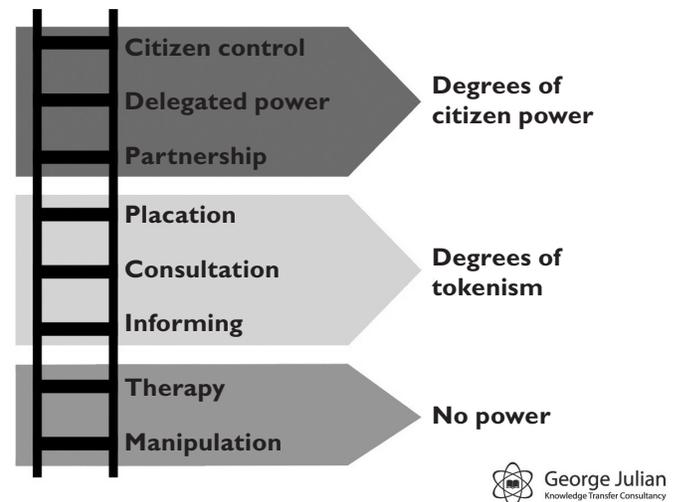
I. Conventional Participation Versus Shared Problem Solving

The conventional approaches to public participation on federal land management—as mandated by the Administrative Procedure Act (1946), National Environmental Policy Act (NEPA) (1969), Federal Land Policy and Management Act (1976), and National Forest Management Act (1976)—revolve around two basic objectives: to “inform and educate” citizens, and to “seek their input and advice.” As explained later, even more recent laws, administrative rules, and policies that encourage or mandate some type of collaboration fall under these two basic objectives.¹⁴ While these objectives, and the methods that support them, are valuable, they compel public land management agencies to serve as a kind of ringmaster in a field of competing interests. Given the design of the decisionmaking system, where the agency is solely responsible for the weighing and balancing of trade offs and making decisions, the different “publics” are increasingly unencumbered from any responsibility to help solve problems.

In *A Conspiracy of Optimism*, Paul Hirt suggests that this approach to public participation and decisionmaking encourages an adversarial process by more or less promising that all parties can get what they want, instead of creating the conditions necessary to bring everyone to the table to share the responsibility of solving problems by working together.¹⁵ The process is perhaps best represented in Sherry Arnstein’s classic “ladder of citizen participation” as “degrees of tokenism,” with perhaps a shade of “partnership” (see Figure 1).¹⁶ The outcomes are well-known to people who live, work, and play on federal lands. While agencies do their best to balance competing interests and make decisions on the best available science, the entire process often leaves citizens, advocates, and decisionmakers

dissatisfied with the outcome. This dissatisfaction in turn leads to a recurrence of disputes, which strains relationships and increases transaction costs.

Figure 1. Ladder of Citizen Participation



George Julian
Knowledge Transfer Consultancy

From Sherry R. Arnstein, “A Ladder of Citizen Participation” (1969), figure from <http://www.georgejulian.co.uk>.

In contrast to these conventional methods of public participation and decisionmaking, there are a variety of innovative approaches to public engagement and shared problem solving emerging within communities, watersheds, and larger landscapes. Often referred to as the “collaboration movement,” these innovations started to appear in the early 1990s when citizens and stakeholders became frustrated and dissatisfied with the more conventional, government-driven processes to manage public lands.¹⁷ These homegrown, grass-roots processes tend to be citizen-driven and place-based. In most cases, they do not have any official authority. Instead, they generate legitimacy, credibility, and effectiveness by building broad-based coalitions or a “constituency for change.” So-called coalitions of the unlike create public processes that are inclusive and informed, and that foster a sense of shared ownership for the process, decisions, and outcomes.¹⁸ They are also achieving notable outcomes in terms of economic development, community vitality, and environmental stewardship.

Even at the Malheur National Wildlife Refuge, where a high-profile occupation of federal lands occurred in 2016 to protest federal control of western lands, there has been a quiet, yet effective, collaborative group working for more than 10 years. Known as the High Desert Partnership, this

14. Collaboration is a public process where multiple stakeholders work together to solve a common problem or achieve a common objective. These processes may be citizen-driven or led by government agencies; they are often place-based, but are also used to address state, regional, and national policy issues. By definition, collaboration is multistakeholder and multi-objective. Collaborative processes vary in terms of purpose and spatial scale given that each process is tailored to the particular needs and interests of the sponsoring agency of community, watershed, or ecosystem.

15. PAUL W. HIRT, *A CONSPIRACY OF OPTIMISM: MANAGEMENT OF NATIONAL FORESTS SINCE WORLD WAR II* (1996).

16. Sherry R. Arnstein, *A Ladder of Citizen Participation*, 35 JAPA 216 (1969).

17. For a review of the history of this theory and practice, see ACROSS THE GREAT DIVIDE: EXPLORATIONS IN COLLABORATIVE CONSERVATION AND THE AMERICAN WEST 150-59 (Philip Brick et al. eds., Island Press 2000) [hereinafter ACROSS THE GREAT DIVIDE]. The commonly accepted definition of the word “stakeholders” is (1) people who have interest in or are affected by a proposed decision or action; (2) people that are needed to implement any particular decision or outcome; and (3) people that may be opposed to the process or the outcome.

18. In the opening essay of ACROSS THE GREAT DIVIDE, *supra* note 17, Donald Snow offers this insightful turn of phrase.

coalition of ranchers, environmentalists, and government agencies has facilitated a process of listening, learning, and cooperative land use planning.¹⁹ According to recent reports, it has transformed local land use politics from a state of gridlock dominated by acrimony and litigation to one of implementing innovative solutions to complex problems by working together, reaching agreements, and rebuilding the sense of community.²⁰

Participants in this partnership apparently did not welcome the outside protesters in 2016, believing that their homegrown approach to working with the federal land management agencies is more constructive and promising. One of the partnership's first accomplishments was to create a 15-year comprehensive conservation plan for the refuge where—among other provisions—grazing permits are issued every five years rather than annually, and cattle are kept in higher pasture later into the summer to allow the chicks of sandhill cranes, bobolinks, and other birds to hatch in the wet meadows.²¹ As explained more fully below, this is not an isolated case of collaborative conservation, but rather another example of what is fast becoming the norm in public land management.

In spite of the Trump Administration's actions to limit public participation and intergovernmental cooperation and consultation, there is actually a great deal of cooperation and innovation occurring to solve problems, build trust, and sustain both communities and landscapes in the American West. The challenge, or better yet the opportunity, is to rethink our conventional approaches to public participation and governance by integrating the lessons of these more informal, collaborative processes into formal decisionmaking processes. This is not a call for agencies to abdicate their decisionmaking authority, but to share responsibility for solving problems.²²

19. See High Desert Partnership, *Homepage*, <http://www.highdesertpartnership.org> (last visited Nov. 1, 2017).

20. Karina Brown, *Bundy Militia's Takeover Dreams Dashed by Bond Between Ranchers and Feds*, COURTHOUSE NEWS SERVICE, Apr. 6, 2016.

21. Emma Marris, *How Malheur Became the Epicenter of Community-Led Conservation*, AUDUBON MAG., Summer 2016.

22. Federal agencies may not delegate or sub-delegate their decisionmaking and management authority to community-based collaborative groups without congressional approval. See *National Parks & Conservation Ass'n v. Stanton*, 54 F. Supp. 2d 7 (D.D.C. 1999), where the National Park Service (NPS) delegated its authority to manage the Niobrara National Scenic River to a local council under a cooperative agreement. The NPS had virtually no control over the council, and under the plan, the council would have complete responsibility for decisions about the river. The only power the NPS retained was that it could cancel the cooperative agreement with 60-days' notice. The council included county commissioners, private landowners, business representatives, and a representative from the NPS and the U.S. Fish and Wildlife Service. The National Parks and Conservation Association (NPCA) sued for an injunction, arguing that it was unconstitutional for the NPS to delegate its authority in such a manner. The trial court found for the NPCA and granted the injunction. The court found nothing in statutory law that allowed the U.S. Department of the Interior to delegate authority to the council, and that the delegation was unlawful because the NPS retained no oversight over the council, no final reviewing authority over the council's actions or inactions, and the council's dominant private local interests were likely to conflict with the national environmental interests that the NPS is statutorily mandated to represent. The court found that simply retaining the ability to cancel the agreement was not sufficient oversight.

In this respect, it is important to distinguish governance from government. Government occurs when people with formal, legal authority make plans and take action. By contrast, governance is what happens when citizens and groups (often including government agency officials) work together to plan and act based on their shared goals. Such efforts may or may not have formal authority or power.²³ Governance refers to the style or method by which decisions are made and the way in which conflicts among actors are resolved. Governance is about representation, style of interaction, authority, and decision rules. It also refers to processes that support governance: that is, fostering scientific and public learning as well as building civic and political will.

II. Homegrown Innovation: The Case of the Crown of the Continent

To illustrate the evolution of innovative approaches to public participation and shared problem solving, consider the case of the Crown of the Continent. The COTC is an 18-million-acre transboundary ecosystem that includes parts of Montana, Alberta, and British Columbia (see Figure 2).²⁴ It is an ecological crossroads where plant and animal communities from the Pacific Northwest, eastern prairies, southern Rockies, and boreal forests mingle. The majestic spine of mountains is the headwaters for North America, where pristine rivers originate and flow to the Pacific Ocean, Gulf of Mexico, and Arctic Ocean. The COTC is one of very few landscapes on the continent that retains its full complement of native habitat and native predators—wolves, grizzly and black bears, cougar, coyote, fox, wolverine, bobcat, and lynx—as well as large populations of moose, elk, bighorn sheep, pronghorn, and deer.

The COTC is, and has been, home to a number of indigenous people. Ancestors of the Blackfeet, Kainaiwa, Kootenai, Ktunaxa, and Salish peoples were among the first to hunt, fish, and gather plants for food and fiber here. By the early 1800s, when the first white explorers and trappers arrived, much of the region was already settled, with tribal territories, hunting grounds, and travel routes well-established. As the population grew, some people saw development as a threat to the region's natural heritage and beauty. In the late 1890s, several people, including the editor of *Forest and Stream* magazine—George Bird Grinnell—lobbied Congress to establish a national park south of the Canadian border. In a series of articles, Grinnell referred to the region as the “Crown of the Continent.” A forest preserve was set aside in 1897, but the area remained open to mining and logging. Grinnell and other conservation-

23. Several observers make similar distinctions. A good place to begin is Lisa Blomgren Bingham et al., *The New Governance: Practices and Processes for Stakeholder and Citizen Participation in the Work of Government*, 65 PUB. ADMIN. REV. 547 (2005).

24. The following narrative draws heavily on SONORAN INSTITUTE, *REMARKABLE BEYOND BORDERS: PEOPLE AND LANDSCAPES IN THE CROWN OF THE CONTINENT* (2010). References to historical events, laws, and other details can be found in this policy report.

Figure 2. Crown of the Continent

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ists continued promoting the area's unique features, and finally, in 1910, President William Howard Taft signed a bill creating Glacier National Park, which borders Waterton Lakes National Park, created by Canada in 1895.

Local Rotary Clubs (i.e., business leaders) in Alberta and Montana rallied around the idea of this shared landscape, and in 1932, the governments of both Canada and the United States voted to designate the parks as Waterton-Glacier International Peace Park—the world's first such designation. The United Nations Educational, Scientific, and Cultural Organization named Glacier National Park as a Biosphere Reserve in 1976, and recognized Waterton Lakes with the same designation in 1979. Consisting of about 1.3 million acres, the two parks were named a World Heritage Site in 1995, acknowledging the area's rich ecological and cultural values. In Montana, about 1.6 million acres of federally protected wilderness extend around Glacier National Park. Several areas throughout the transboundary ecosystem benefit from additional special conservation designations, including wild and scenic rivers, provincial parks, wildlife management areas, and recreation areas. Many additional acres of private working landscapes are protected under conservation easements.

Thanks to this remarkable history of stewardship, the COTC endures today as a natural oasis in an increasingly developed world. Like many large landscapes in the North American West, however, the COTC is currently faced with a number of issues related to climate change, water resources, wildlife corridors and habitat conservation, evolving economic opportunities, and patterns of growth

and development.²⁵ In response to these complex issues, individuals and organizations throughout the COTC are creating new forms of public engagement and shared problem solving—what might be referred to collectively as an “ecology of governance.”

In a formal sense, the COTC includes two nations, two provinces, one state, and seven tribes and First Nations, with more than 20 government agencies exercising some type of authority and management on the landscape. Although the landscape is jurisdictionally fragmented, each of these institutions plays an important role in managing natural resources. Unfortunately, the most compelling issues facing the COTC, from invasive species to weeds to wildlife corridors, wildfire, water, and so on, present themselves at a spatial scale that crosses jurisdictional and cultural boundaries.

While legal and institutional boundaries delineate ownership and management authority, they also create barriers among neighbors and can reinforce disparate cultures, attitudes, goals, and values. In spite of these challenges, people who care about the COTC and its future are creating informal opportunities for public engagement and shared problem solving. What is occurring, in fact, is a nested system of collaborative arrangements that are similar, at least in part, to Elinor Ostrom's notion of “polycentric systems of governance.”²⁶ Today, more than 100 agencies and community-based partnerships are working to promote and support livable communities, vibrant economies, and healthy landscapes within the COTC.

Starting at the smallest geographic scale, there are at least 20 community-based partnerships in the COTC, most of them initiated and convened by citizens (see Figure 3). These community-based partnerships create the basic building blocks within the nested system of governance. Consider, for example, the Blackfoot Challenge.²⁷ This landowner-led nonprofit organization coordinates management of the Blackfoot River, its tributaries, and adjacent public and private lands, a total of about 2,400 square miles. It is organized locally and known nationally as a model for preserving the rural character, ecological health, and natural beauty of the watershed.

The mission of the Blackfoot Challenge is to coordinate efforts that enhance, conserve, and protect the natural resources and rural lifestyles of the Blackfoot River Valley for present and future generations. It supports environmental stewardship through cooperation of private and

25. Recent trends in large landscape conservation in the American West are examined in MATTHEW MCKINNEY & SHAWN JOHNSON, CENTER FOR NATURAL RESOURCES & ENVIRONMENTAL POLICY, LARGE LANDSCAPE CONSERVATION IN THE ROCKY MOUNTAIN WEST: AN INVENTORY AND STATUS REPORT (2013).

26. Elinor Ostrom, *Beyond Markets and States: Polycentric Governance of Complex Economic Systems*, Nobel Prize Lecture (Dec. 8, 2009).

27. See BLACKFOOT CHALLENGE, 2015 ANNUAL REPORT, <http://biz170.inmotion-hosting.com/~blackf22/Clone//2015-annual-report-now-available-join-us-in-reviewing-another-year-of-outcomes-for-the-blackfoot-watershed/>. For a critical review of community-based partnerships, including the Blackfoot Challenge, see ED WEBER, BRINGING SOCIETY BACK IN: GRASSROOTS ECOSYSTEM MANAGEMENT, ACCOUNTABILITY, AND SUSTAINABLE COMMUNITIES (2003).

Figure 3. Community-Based Partnerships**Alberta Sub-region**

Castle Special Place Working Group
 Waterton Front Park Project
 Oldman River Watershed Group
 Southern Foothills Community Stewardship Initiative

British Columbia Sub-region

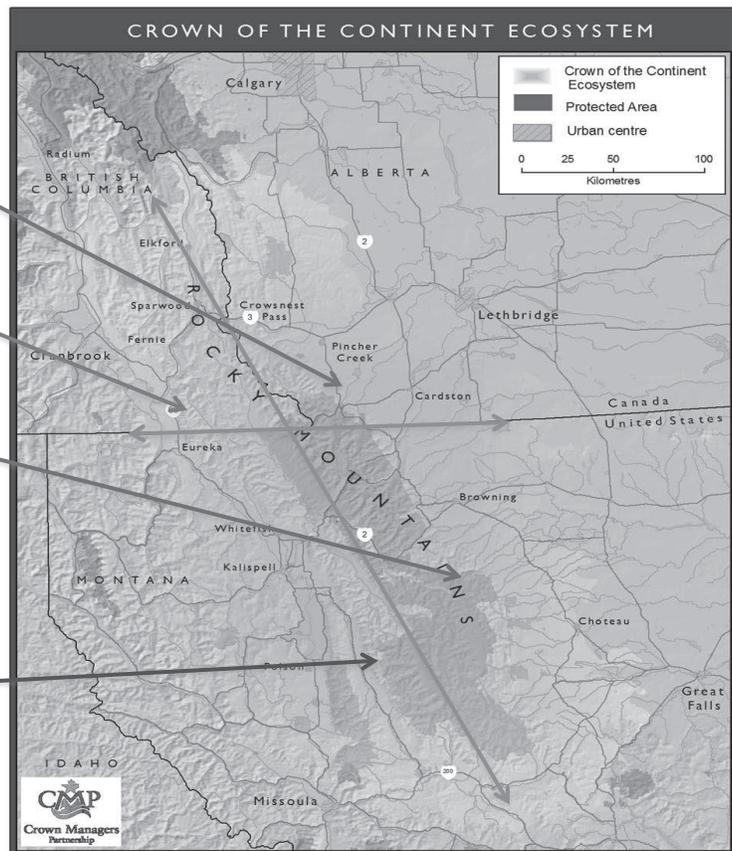
Elk River Alliance
 East Kootenay Conservation Program
 East Kootenay Invasive Species Council

Montana East Side Sub-region

Coalition to Protect the Rocky Mountain Front
 Marias River Watershed Group
 Teton River Watershed Group
 Sun River Watershed Group
 Rocky Mountain Front Weed Roundtable
 Badger-Two Medicine Alliance

Montana West-side Sub-region

Blackfoot Challenge
 Clearwater Resource Council
 Montana Legacy Project
 Swan Valley Connections
 Southwest Crown Collaborative



public interests. Private landowners, federal and state land managers, local government officials, and corporate landowners make up the membership of the board of directors. Although the Blackfoot Challenge does not have any formal legal authority to manage lands and resources—either public or private—in the watershed, the participants share a common vision and belief that successful land, water, and natural resources management is most likely to result from building trust and sharing responsibility.

As presented in Table 1, the Blackfoot Challenge has achieved several notable accomplishments since it was created in 1993. It also illustrates how community-based partnerships in the COTE “nest” alongside each other to help manage the land, water, and people within distinct, yet adjacent watersheds. To complement these basic building blocks, at least nine independent initiatives have emerged since 1994 to promote and support shared problem solving at the scale of the transboundary COTE (see Table 2). While none of these initiatives has any formal authority to make and implement decisions, they each play a critical role in the ecology of governance—exchanging information, building relationships, and creating opportunities to work together. Along with the community-based partnerships such as the Blackfoot Challenge, they help build the civic and political will to address complex natural resources and related issues that cannot be effectively addressed by any single community, stakeholder group, or government agency.

The Crown Managers Partnership (CMP), for example, emerged in 2001 as an interagency forum for about 20 land management agencies in Montana, Alberta, and British Columbia.²⁸ This voluntary partnership provides a forum for management agencies to identify common needs and interests, develop joint initiatives, and leverage resources as appropriate. It convenes an annual public forum to examine both ongoing and emerging issues and to inform decisionmakers at all levels on priority issues and actions. It is important to emphasize that, like the Blackfoot Challenge and other community-based partnerships, the work of CMP is nonbinding; it depends on the participating agencies going back to their particular jurisdictions and implementing projects consistent with agreed-upon objectives and strategies.

According to CMP’s *Strategic Conservation Framework 2016-2020*, its major accomplishments over the years include creating and maintaining a transboundary database of land cover and land use to facilitate consistent decisions and management actions; preventing the spread of aquatic invasive species; increasing the resilience of native, cold-water salmonids; and managing noxious weeds.²⁹ These and other accomplishments demonstrate that it is imperative to work across boundaries to effectively address issues that cut across jurisdictional boundaries. They also demonstrate CMP’s commitment to overcome a variety

28. See CMP, *Homepage*, <http://crownmanagers.org> (last visited Nov. 1, 2017).

29. CMP, *STRATEGIC CONSERVATION FRAMEWORK 2016-2020* (2016).

Table I. Blackfoot Challenge Accomplishments

Keeping Landscapes Working

- ❖ 150,000 acres under conservation easement, available for agriculture and wildlife
- ❖ 238,000 acres of corporate timber land kept working in conservation status
- ❖ 83% of watershed in conserved status (private land conservation easement or public ownership)
- ❖ 41,000 acres of public and private land managed by community council

Reducing Conflicts

- ❖ Keeping grizzly bear conflicts below 94% since 2003 and reducing wolf conflicts since 2008

Conserving Water for Agriculture and Fish

- ❖ Conserving tens of millions of gallons of water in a typical drought year through voluntary plans
- ❖ 50% of the irrigation systems participating in the irrigation/energy-efficiency program

Making Communities Safe and Maintaining Forest Health

- ❖ Reducing forest fuel loads on an average of 500 acres each year since 2009

Connecting Classrooms and Communities With Place-Based Education

- ❖ Educating 500 youth each year since 1993
- ❖ Reaching 1,500 adults each year since 2004

Transferring the Lessons Learned Through Community-Based Conservation

- ❖ Hosting the first America's Great Outdoors events in the nation on June 1, 2010
- ❖ Approval for a private landowner advisory group to secretaries of Interior and Agriculture
- ❖ Formation of Partners for Conservation to support community-based conservation across America
- ❖ Model for new National Fish and Wildlife Foundation Landscape Conservation Stewardship Program

Managing Noxious Weeds Across Fence Lines

- ❖ Managing an average of 1,000 acres each year since 2000

of barriers (legal, financial, organizational, information, and so on) to managing natural resources problems that cut across national and agency jurisdictional boundaries. CMP illustrates the value of working together to address transboundary issues that cannot be addressed by any single agency or jurisdiction.

Realizing that the future of the COTC is being shaped by more than 100 government agencies, nongovernmental organizations, and community-based partnerships, the Center for Natural Resources & Environmental Policy (based at the University of Montana) and the Center for Large Landscape Conservation, in partnership with several other organizations, launched the Roundtable on the Crown of the Continent in 2007.³⁰ Prior to the Roundtable, the various initiatives operated largely independently; people were connected to the landscape, but were not connected to each other. The Roundtable seeks to fill this gap by providing an ongoing forum to bring together individuals and organizations that care about the region.

Through workshops, forums, policy dialogues, conferences, and online newsletters, the Roundtable provides

an independent, nonpartisan forum to exchange ideas, build relationships, and explore opportunities to work together. A leadership team that includes representation from community-based partnerships, nongovernmental organizations, communities, tribes and First Nations, agencies, and other people that care about the COTC governs the Roundtable. In 2016, the Roundtable received the Climate Adaptation Leadership Award for Natural Resources from the U.S. Department of the Interior for “catalyzing a landscape-scale, collaborative approach to the conservation of natural resources and adaptation actions across 18 million acres in Montana, Alberta, and British Columbia.”³¹ The award recognizes the Roundtable’s adaptive management initiative, which harnessed financial and other resources and then invested the resources at various spatial scales and across multiple sectors to facilitate climate change adaptation.

Moving on and scaling up even further from the level of the COTC is the Yellowstone to Yukon Conservation Initiative (Y2Y), an effort to protect wildlife habitat and corridors across a 500,000-square-mile landscape—nearly three times the size of California.³² Y2Y began as a network of biologists and conservationists concerned about wildlife and their habitat. Today, the organization focuses on protecting key connectivity areas for wildlife that are threatened by habitat loss, invasive species, and climate change. Y2Y also works closely with private landowners, community leaders, and others to address a range of issues related to land use, community and economic prosperity, and wildlife management. In 2015 alone, Y2Y protected more than 250,000 acres of land in Alberta’s Castle Watershed; ensured protection for 14 million acres of land in Canada’s Yukon Territory; provided technical and facilitative support to the efforts of 118 partners to enhance collective impact in the Yellowstone to Yukon region; collaborated on 67 conservation projects that protect habitat and connect wildlife throughout the region; and raised \$326,000 to support grass-roots projects.³³

One of the most recent additions to the ecology of governance in the COTC is the Great Northern Landscape Conservation Cooperative.³⁴ This initiative, led by the U.S. Fish and Wildlife Service and other federal agencies,

31. See National Fish, Wildlife, and Plants Climate Adaptation Strategy, *Homepage*, <https://www.wildlifeadaptationstrategy.gov> (last visited Nov. 1, 2017).

32. See Y2Y, *Homepage*, <https://y2y.net> (last visited Nov. 1, 2017).

33. Y2Y, 2015 ANNUAL REPORT (2016).

34. See Great Northern Landscape Conservation Cooperative, *Homepage*, <http://www.greatnorthernlcc.org> (last visited Nov. 1, 2017).

30. See Roundtable on the Crown of the Continent, *Homepage*, <http://crownroundtable.net/> (last visited Nov. 1, 2017).

Table 2. Crown-Wide Initiatives

1994 Crown of the Continent Ecosystem Education Consortium—Develops ecosystem-focused curricula, workshops, and projects.

1999 Transboundary Research and Education Program—Jointly managed by faculty from the Environmental Studies Program at the University of Montana and the faculty of Environmental Design at the University of Calgary, this program offers graduate student research and internship support, shared courses, and faculty exchange to explore and develop the knowledge and skills necessary to manage across domestic or international administrative boundaries.

2001 Crown Managers Partnership—CMP was created in 2001 as an interagency forum for about 20 land management agencies in Montana, Alberta, and British Columbia. This voluntary partnership seeks to build common awareness of COTC interests and issues, shape relationships, and identify collaborative and complementary tasks that the various participating jurisdictions can pursue.

2002 Crown of the Continent Resource Learning Center—Located in Glacier National Park, the learning center provides coordination and information sharing between scientists and land managers. Projects are carried out through collaboration among government, academia, educational institutions, public interest, and private citizens, all of whom are committed to understanding and preserving the COTC's natural, social, and cultural heritage. The learning center has made communicating the impacts of climate change one of the highest priorities.

2002 Heart of the Rockies—This initiative includes 25 national, statewide, and local land trusts working along the Continental Divide in Alberta, British Columbia, Idaho, Montana, and Wyoming. The core mission of this initiative is to work together to increase the pace of strategic private land conservation in the Northern Rockies to ensure the long-term ecological functionality of the region's landscapes. Private lands are among the region's most ecologically productive. They are generally found along river corridors and house important wetlands, seasonal wildlife habitat, and connectivity habitat that bind the greater ecosystem together. By enhancing the capacity of the organizations working on the ground in this region, supporting excellence, and facilitating capital fund-raising, the Heart of the Rockies Initiative is advancing long-term conservation of ecological, agricultural, and cultural significance.

2007 Crown of the Continent Geotourism Council—This broad-based partnership of local community and business leaders started as an advisory committee to work with the National Parks Conservation Association and the National Geographic Society on the Crown of the Continent Geotourism MapGuide and interactive website. Today, the council describes itself as a regional network of communities, tourism bureaus, conservation and business groups, educators, First Nations, government agencies, and others working together to provide information about the Crown of the Continent region for visitors and residents to understand, appreciate, and help preserve its geographic character, including historical, cultural and environmental heritage. Looking forward, the Council intends to pursue cooperative projects that promote regional understanding and appreciation, encourage sustainable businesses, support community well-being, advance landscape stewardship, and provide outstanding visitor experiences.

2007 Roundtable on the Crown of the Continent—The roundtable is an ongoing forum to bring together people who care about this special place. It is based on the observation that the future of the COTC is being shaped by more than 100 government agencies, nongovernmental organizations, and community-based partnerships. While these various initiatives operate somewhat independent of each other, the roundtable provides a unique opportunity to connect people who share a common commitment to the region. Through workshops, forums, policy dialogues, and conferences, the roundtable provides an opportunity to exchange ideas, build relationships, and explore opportunities to work together—to sustain the natural and cultural heritage of this remarkable landscape. The roundtable is convened by the Center for Natural Resources & Environment Policy at the University of Montana and the Lincoln Institute of Land Policy.

2009 University of Montana Crown of the Continent Initiative—Led by the Department of Geography at the University of Montana, this initiative was publicly launched in 2009 and includes research coordination at the University of Montana, educational outreach, and publication of an e-magazine and e-notes with updates about activities related to the COTC.

2009 Crown of the Continent Conservation Initiative—This coalition is led by a steering committee of 15 organizations in the United States and Canada. Over the past year, the initiative developed a comprehensive conservation agenda and conservation plan to achieve long-term conservation goals and vision for the COTC in a time of climate change, as well as comprehensive and collaborative conservation strategies in four key areas: climate science, policy framework, communication/outreach, and capacity-building. Climate change is the overarching theme of the initiative.

is developing scientific capacity to address climate change and other stressors to wildlife species and habitats within the Northern Rockies and the Columbia River Basin. The cooperative provides scientific and technical support to government agencies, including tribes and First Nations, in part to support adaptive management and large landscape conservation. The accomplishments of this cooperative initiative are impressive and include a variety of studies, tools, and projects to advance large landscape conservation, in

addition to building the capacity of several partners and creating a five-year transboundary science plan.³⁵

Several other homegrown initiatives further illustrate the variety of innovative approaches to public participation and shared problem solving emerging in the COTC. In response to a growing national debate over the use of mountain bikes in wilderness areas, Montana High Divide

35. GREAT NORTHERN LANDSCAPE CONSERVATION COOPERATIVE, GREAT NORTHERN LCC ACTIVITIES AND ACCOMPLISHMENTS 2014 (2015).

Trails formed in 2007 to find common ground to inform agency decisionmakers.³⁶ The group includes representatives from the Montana Wilderness Association, a local land trust, several mountain biking clubs, a backcountry horseman's association, and others. This "coalition of the unlike" has found that the Forest Service is likely to listen to them when they offer consensus recommendations on travel plans and the like. Its accomplishments include a network of "front country" foothill trails located near Butte and Helena that provide bicyclists, horse enthusiasts, hikers, and other quiet users access to mountain trails and open space linked to the rugged Continental Divide Trail system.

Another example is the Iinnii Initiative.³⁷ In September 2014, members of the Blackfoot Nation, Blood Tribe, Siksika Nation, Piikani Nation, Fort Belknap Reservation, Fort Peck Reservation, Confederated Salish and Kootenai Reservation, and the Tsuu T'ina Nation signed the "Northern Tribes Buffalo Treaty." The intent of this transboundary treaty—the first such treaty among these disparate tribes in more than 150 years—is to bring wild buffalo back to tribal lands to restore its cultural, spiritual, nutritional, and ecological role. In April 2016, nearly 100 bison were reintroduced to the Blackfoot Indian Reservation in northern Montana from Elk Island National Park in Alberta.³⁸

III. Replicating Homegrown Innovations

The ecology of governance in the COTC illustrates a growing trend in public participation and shared problem solving—a trend where citizens, nongovernmental organizations, universities, and other associations are taking the initiative to catalyze, convene, and coordinate public forums to exchange information, solve problems, and implement solutions. In most cases, these homegrown forums are designed to supplement, not replace, formal decisionmaking systems. In some cases, they allow the formal decisionmaking processes to work better—such as when the groups involved in Montana High Divide Trails find common ground and offer consensus recommendations to the Forest Service. This type of supplemental civic engagement does not replace the public participation required by the Forest Service and other government agencies prior to making decisions and taking actions, but it often informs that decision process, reduces the amount

and intensity of conflict, and helps generate durable solutions that can be implemented on the ground.

This trend not only suggests a shift from an expert-driven model of decisionmaking to more democratic approaches, but also raises some important questions about "governance" and the role of citizens, professionals, and communities in decisionmaking. From a political perspective, this trend in homegrown, civic engagement creates a healthy tension between bottom-up and top-down approaches to governance. In *Planning With Complexity*, Judith Innes and David Booher suggest that this tension can be explained, at least in part, by the difference between "instrumental rationality" and "collaborative rationality."³⁹

Instrumental rationalists tend to approach natural resources issues as largely technical problems that can be effectively resolved by the best available science and the separation of politics from decisionmaking. This model emerged during the progressive era around the 1900s and continues to serve in large part as the foundation for public land management agencies.⁴⁰

By contrast, collaborative rationality sees the world as inherently uncertain and assumes that all decisions are necessarily contingent. From this perspective, planning and policy are not about finding the best solution (indeed, there is not likely to be one best solution), but rather discovering ways of proceeding that are better than the status quo. Most federal land management agencies, as well as others, seem to embrace this inherent uncertainty in natural resources decisionmaking—at least to some degree—as demonstrated by the growing practice of adaptive management and planning.⁴¹

Public processes characterized by collaborative rationality engage diverse members of a community, including citizens, stakeholders with diverse needs and interests, as well as experts and agencies. They work together to jointly learn and generate solutions in the face of conflict, changing conditions, and conflicting sources of information. Such processes, as illustrated by the High Desert Partnership, the ecology of governance in the COTC, and the plethora of large landscape conservation initiatives in the Rocky Mountains,⁴² not only generate new ways to move forward, but also help communities adapt and become more resilient in the face of new challenges. In other words, the successful practice of collaborative governance within communities, watersheds, and ecosystems builds social, political, and intellectual capital that can then be applied to other

36. See Tom Klugin, *Forging a New Path: Regional Trail Users Find Common Ground Despite National Controversy Over Bikes in Wilderness*, HELENA INDEP. REC., Apr. 10, 2016. See also Montana Wilderness Association, *Montana High Divide Trails*, <http://wildmontana.org/our-work/protecting-public-lands/quiet-trails/montana-high-divide-trails> (last visited Nov. 1, 2017).

37. For starters, see Video: Iinnii Initiative: The Return of the Buffalo (Wildlife Conservation Society 2013), <https://www.youtube.com/watch?v=6LjFpMoGMAg>. See also The Buffalo: A Treaty of Cooperation, Renewal, and Restoration, Sept. 23, 2014, which serves as the charter for this initiative, and Harvey Locke, *Pledge to Restore Wild Buffalo Unites First Nations of North America*, NAT'L GEOGRAPHIC, Aug. 18, 2015.

38. Rob Chaney, *Blackfeet Welcome Bison Herd to New Reservation Home*, MISSOULIAN, Apr. 4, 2016.

39. JUDITH INNES & DAVID BOOHER, *PLANNING WITH COMPLEXITY: AN INTRODUCTION TO COLLABORATIVE RATIONALITY FOR PUBLIC POLICY* (2010).

40. SAMUEL P. HAYS, *CONSERVATION AND GOSPEL OF EFFICIENCY: THE PROGRESSIVE CONSERVATION MOVEMENT 1890-1920* (1959); ROBERT H. NELSON, *PUBLIC LANDS AND PRIVATE RIGHTS: THE FAILURE OF SCIENTIFIC MANAGEMENT* (1995).

41. Several resources are available on the theory and practice of adaptive management by federal natural resource agencies. A reasonable place to start is *ADAPTIVE MANAGEMENT OF SOCIAL-ECOLOGICAL SYSTEMS* (Craig R. Allen & Ahjond S. Garmestani eds., Springer 2015). Another useful resource is Courtney Schultz & Martin Nie, *Decision-Making Triggers, Adaptive Management, and Natural Resources Law and Planning*, 52 NAT. RESOURCES J. 443-521 (2012).

42. See MCKINNEY & JOHNSON, *supra* note 25.

issues facing individuals, groups, and communities. In this respect, collaborative governance is changing the political culture of the places and communities where it is practiced.

In light of these innovative trends in public participation and shared problem solving, how can we rethink the more conventional approaches to public participation by integrating the lessons of the more informal, collaborative processes into formal decisionmaking processes?⁴³ There seem to be two general responses to this question: first, to foster innovations within the existing legal and institutional system; and second, to begin experimenting with alternatives to the established decisionmaking system.

A. *Fostering Innovation Within the Existing Legal and Institutional Framework*

The first approach to replicating the spirit and dynamics of collaborative problem solving is to foster innovation within the existing legal and institutional framework. Three examples illustrate how public land management agencies are moving in this direction.⁴⁴

I. Collaborative Forest Landscape Restoration Program

The first example is the Collaborative Forest Landscape Restoration Program (CFLRP), authorized by Congress in 2009.⁴⁵ The intent of the statute is to create a limited

number of projects to accelerate restoration on high-priority landscapes, support economic stability in rural communities, and reduce the risk and associated costs of catastrophic wildfire. An advisory committee overseeing implementation of this program selected projects on the basis of these goals and criteria. Projects were also selected on the strength of their collaborative capacity, demonstrated first and foremost by the mix of individuals and organizations that prepared the proposals.

In other words, the CFLRP created the right set of incentives for people with diverse needs and interests to come together and forge a common vision and strategy. According to the program's five-year report,⁴⁶ the 10 pilot projects have generated the following accomplishments:

- More than 1.4 million acres treated to reduce the risk of catastrophic fire
- More than 84,570 acres of forest lands treated to achieve healthier conditions through timber sales
- More than 1.33 million acres improved for wildlife habitat
- More than 73,600 acres treated for noxious weeds and invasive plants
- More than 1,256 million board feet of timber volume sold
- More than \$661 million in local labor income
- An average of 4,360 jobs per year

CFLRP projects have also attracted new partners and built community relationships, leveraging more than \$76 million in matching funds. By most metrics, the CFLRP seems to be a good example of how to integrate the "secret sauce" of collaborative governance into the existing legal and institutional framework governing public land management.⁴⁷

2. Forest Service 2012 Planning Rule

The second example is the new planning rule adopted by the Forest Service.⁴⁸ In 2012, after working through a multiparty collaborative process, the agency adopted new

43. The rationale to rethink and reform the existing system of public participation and decisionmaking is summarized in DANIEL KEMMIS & MATTHEW MCKINNEY, *COLLABORATION AND THE ECOLOGY OF DEMOCRACY* 17-19 (2011). A longer treatment of the topic is presented in KEMMIS, *supra* note 10. A critical review of the legal and institutional opportunities and challenges to implement this vision can be found in Lisa Blomgren Bingham, *The Next Generation of Administrative Law: Building the Legal Infrastructure for Collaborative Governance*, 10 WIS. L. REV. 297 (2010).

44. In addition to these three examples, it is instructive to review the degree to which negotiation, mediation, and collaboration has been integrated into agency decisionmaking and conflict resolution processes. For starters, see Sarah B. Van de Wetering & Matthew McKinney, *The Role of Mandatory Dispute Resolution in Federal Environmental Law: Lessons From the Clean Air Act*, 21 J. ENVTL. L. & LITIG. 1 (2006); CURTIS W. COPELAND, CONGRESSIONAL RESEARCH SERVICE, *NEGOTIATED RULEMAKING* (2006); Stewardship End Result Contracting Projects, 16 U.S.C. §2104 note; and Incorporating Consensus-Based Management (43 C.F.R. §46.110 (2008)). This administrative rule promulgated by the Secretary of the Interior is particularly interesting in that it allows and encourages agencies and bureaus within the Department of the Interior to integrate consensus-based alternatives into their analysis as governed by NEPA. The administrative rule clarifies that there is no guarantee that any consensus-based alternative will be considered to be a reasonable alternative or be identified as the preferred alternative. Agencies and bureaus are required to explain how the consensus-based alternative is reflected in the proposed action and final decision. It is not clear how, if at all, this administrative rule has been implemented in practice. Another good example along these lines is good neighbor agreements. See Agricultural Act of 2014, Pub. L. No. 113-79, §8206, 128 Stat. 649 (Good Neighbor Authority), which provides an opportunity for parties to carry out "authorized forest, rangeland, and watershed restoration services" on and off of national forest lands. For a critical review of the performance of good neighbor agreements, see DOUGLAS S. KENNEY ET AL., UNIVERSITY OF COLORADO SCHOOL OF LAW, *EVALUATING THE USE OF GOOD NEIGHBOR AGREEMENTS FOR ENVIRONMENTAL AND COMMUNITY PROTECTION: FINAL REPORT* (2004).

45. See Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991.

46. U.S. FOREST SERVICE, *COLLABORATIVE FOREST LANDSCAPE RESTORATION PROGRAM 5-YEAR REPORT, FY 2010-2014* (2015) (FS-1047). See also R. PATRICK BIXLER & BRIAN KITTLER, PINCHOT INSTITUTE FOR CONSERVATION, *COLLABORATIVE FOREST LANDSCAPE RESTORATION: A META-ANALYSIS OF EXISTING RESEARCH ON THE CFLR PROGRAM* (2015).

47. The reference to "secret sauce" refers to a metaphor used by Hillary Tompkins, Solicitor, Department of the Interior, during her keynote address at the University of Montana's 36th Public Land Law Conference *Transcending Boundaries: Achieving Success in Cooperative Management of Natural Resources* (Oct. 2015). According to the solicitor, the first ingredient to successful collaboration is a catalyst, which often comes in the form of conflict. The second ingredient is public sentiment in your favor; you cannot force the outcome. The third ingredient is the right messenger—someone people will listen to, trust, and respect. The fourth ingredient is the right setting, the place where solutions can emerge. The fifth ingredient is creative thinking, often out of the box.

48. See National Forest System Land Management Planning, 36 C.F.R. pt. 219 (2012).

administrative rules to guide the process of revising and updating land management plans.⁴⁹ Among other things, the 2012 planning rule directs the Forest Service to “engage the public . . . early and throughout the planning process . . . using collaborative processes where feasible and appropriate . . . [as well as] the full spectrum of tools for public engagement. . . .” According to the Federal Advisory Committee on Implementation of the 2012 Land Management Planning Rule, the 2012 planning rule is the first significant update to Forest Service planning in 30 years.⁵⁰ Among other things, it is designed to incorporate commonly accepted principles of public participation, sound science, adaptive management, and ecosystem management.

In the fall of 2014, the Center for Natural Resources & Environmental Policy at the University of Montana was asked to document and evaluate lessons learned with respect to public participation and collaboration in the 12 “early adopters” of the 2012 planning rule—the first national forests to revise and update their land management plans under the new rule.⁵¹ Based on that evaluation, several national forests are employing what might be considered “best practices” in collaborative planning, including but not limited to the following:

- Using professional facilitators to help design and guide the public process
- Dedicating a Forest Service staffer to serve as a “collaboration specialist” to help guide the public participation process
- Completing stakeholder assessments upfront to clarify the needs and interests of individuals, groups, and communities, and to explore how they want to be involved in the process
- Jointly preparing public participation plans based on the stakeholder assessments
- Engaging the public prior to initiating the environmental analysis required by NEPA
- Using participatory mapping tools, which allow people with diverse interests to jointly identify areas suitable for wilderness designation, timber harvesting, and other resource uses. In addition to providing spatial information, this type of interactive exercise allows individuals and groups to exchange ideas with each other and Forest Service officials, to consider potential conflicts and trade offs, and to otherwise build and enhance relationships.

A limited number of national forests have gone even further. In the Nantahala and Pisgah National Forests in North Carolina, three different stakeholder groups attempted to create a multiparty collaborative process to run alongside, feed, and otherwise supplement the planning process. Each of these processes failed to generate sufficient momentum, in large part because the self-appointed stakeholder groups limited who could participate. As a result, the National Forest Foundation was asked to step in and convene a single, more inclusive collaborative process to provide input and advice to the Forest Service as the planning process unfolds.⁵²

This single collaborative group is up and running, and according to one person close to this process, the Nantahala and Pisgah National Forests are working hard to manage an open, transparent, and collaborative process that fosters shared problem solving.⁵³ Apparently, the national forests practice what they refer to as “radical transparency” with the stakeholder forum as well as the larger public engagement process. They have opened up their interdisciplinary team meetings to observers, and release draft sections of the plan online as they are completed.

In the Flathead National Forest in Montana, a diverse collection of individuals and groups created the Whitefish Range Partnership to seek agreement on recommendations for this particular area.⁵⁴ Representatives of wilderness, timber, motorized and non-motorized recreation, and the local communities worked alongside Forest Service officials and arrived at a set of consensus recommendations on land use and management for the Whitefish Range. These recommendations were rolled into the proposed action to initiate the NEPA process. This innovative approach to public participation and shared problem solving did not violate the Federal Advisory Committee Act because the Forest Service did not convene the partnership, and other people had a similar opportunity to provide input and advice prior to the start of the NEPA process.⁵⁵

Working with different national forests, the Center for Natural Resources & Environmental Policy has suggested a similar innovative approach. Rather than creating new collaborative partnerships for national forest planning, the Center suggested that national forests should build on existing community-based partnerships. In the case of the Helena and Lewis and Clark National Forest, for example, there are about 10 different multiparty collaborative partnerships, all functioning with a track record of success. Given that these partnerships have done the heavy lifting of bringing diverse interests and viewpoints to the table, building trust,

49. See U.S. Forest Service, *Collaboration & Public Involvement*, <http://www.fs.usda.gov/main/planningrule/collaboration> (last visited Nov. 1, 2017), for a review of the collaborative process used to shape the 2012 planning rule.

50. FEDERAL ADVISORY COMMITTEE ON IMPLEMENTATION OF THE 2012 LAND MANAGEMENT PLANNING RULE, U.S. DEPARTMENT OF AGRICULTURE, A CITIZEN’S GUIDE TO FOREST PLANNING (2016).

51. CENTER FOR NATURAL RESOURCES & ENVIRONMENTAL POLICY, UNIVERSITY OF MONTANA, PUBLIC PARTICIPATION: LESSONS LEARNED IMPLEMENTING THE 2012 U.S. FOREST SERVICE PLANNING RULE (2015).

52. See National Forest Foundation, *Stakeholders Forum for the Nantahala and Pisgah Plan Revision*, <https://www.nationalforests.org/stakeholdersforum> (last visited Nov. 1, 2017).

53. Personal Communication With Emily Olson, Program Manager, National Forest Foundation (Sept. 11, 2016).

54. See WHITEFISH RANGE PARTNERSHIP AGREEMENT DRAFT (2013); Personal Communication With Flathead National Forest Planner (May 2016).

55. For a review of the Federal Advisory Committee Act and other laws related to collaborative conservation, see PUBLIC POLICY RESEARCH INSTITUTE, UNIVERSITY OF MONTANA, THE LEGAL FRAMEWORK FOR COOPERATIVE CONSERVATION (2006).

and achieving results on the ground, they could provide a solid foundation for public participation during the planning process. While they would not be a substitute for other opportunities for public participation, such well-established partnerships could help convene and facilitate public forums on issues related to an emerging forest plan. In many cases, these types of community-based partnerships are already working with the Forest Service to implement projects, so in part, this is an opportunity to move from collaborative implementation to collaborative decisionmaking.

These and other examples demonstrate how the 2012 planning rule has provided the legal and institutional space for the Forest Service to experiment with some innovative approaches to public engagement and shared problem solving. Not all of the national forests currently updating their land management plans via the 2012 planning rule have taken advantage of this opportunity. Nevertheless, realizing that these experiments are not perfect and that we do not yet know their final impact, the Forest Service should be commended for going above and beyond the conventional approach to public engagement as defined in the National Forest Management Act and NEPA.⁵⁶

3. BLM Planning 2.0

The third and final example of innovative public participation and shared problem solving within the existing legal and institutional framework for federal land management is now a footnote in the history of natural resources policy. As mentioned earlier, Congress and the Trump Administration rescinded the 2016 BLM planning rule (commonly known as BLM Planning 2.0) in 2017.⁵⁷ As adopted, the final rule would have allowed BLM

to more readily address landscape-scale resource issues, such as wildfire, habitat connectivity, or the demand for renewable and non-renewable energy sources and to respond more effectively to environmental and social changes . . . emphasize the role of science in the planning process and the importance of evaluating the resource, environmental, ecological, social, and economic conditions at the onset of planning . . . affirm the important role of other Federal agencies, State and local governments, Indian tribes, and the public during the planning process, and would enhance opportunities for public involvement and transparency during the preparation of resource management plans . . . clarify existing text and use plain language to improve the readability of the planning regulations.⁵⁸

Planning 2.0 was developed over three years with extensive input and advice from a broad cross-section of individuals and organizations interested in and affected by management of BLM lands and resources. Contrary to planning rules adopted in 1979, 1983, and 2005, Planning 2.0 sought to improve public participation in resource management planning by involving the public earlier in the planning process, increasing public participation across political jurisdictions, and arriving at more collaborative decisions around the use and conservation of lands and resources managed by BLM.

Arguing against Planning 2.0, the Western Governors' Association maintained that, among other things, the rule would shorten public comment periods in two important steps of the resource management planning process: during the development of the plan and the review process.⁵⁹ The association explained, "Any process that reduces BLM's responsibility to actively inform the public of its actions represents a retreat from openness and transparency." The National Association of Counties argued that the new opportunity for public participation during the "planning assessment" phase of the process appeared to give unelected special interests an equal seat at the table with local and state officials, which effectively places the views of sovereigns among the crowd of public and stakeholder views.⁶⁰

By contrast, the Missoula County Commission believed the Planning 2.0 rule provided additional opportunities for public involvement earlier in the planning process, including the chance to review preliminary resource management alternatives and preliminary rationales for those alternatives. This early public involvement would help resolve conflicts and produce a Resource Management Plan that better reflects the needs of our citizens as well as others who use the public lands and have a stake in their future.⁶¹ The Public Lands Foundation (an association of retired BLM officials) and several conservation organizations likewise applauded the new planning rule for these and other reasons.⁶²

BLM adopted the final rule reforming the planning process on December 12, 2016, toward the end of the Barack Obama Administration. Almost immediately, several groups, including the American Petroleum Institute, American Exploration and Mining Association, Independent Petroleum Association of America, Public Lands Council, and the National Association of Counties, opposed the rule, arguing, among other things, that it allowed "radical special interests" equal footing with local officials. These opponents called on Congress to repeal the administrative rule using the Congressional Review Act. As explained ear-

56. It is important to note that even when the Forest Service provides multiple opportunities for meaningful public participation in the decisionmaking process, some individuals and organizations may still be compelled to challenge both the process and the outcomes through administrative appeals and litigation. See, for example, Perry Backus, *Conservation Groups Plan to Sue Flathead Forest Over Road Management*, MISSOULIAN (Nov. 19, 2017). For more on this general topic, see footnote 78 herein and the associated narrative.

57. See Resource Management Planning, 43 C.F.R. pt. 1600 (final rule approved Nov. 22, 2016).

58. *Id.*

59. See Letter From Governor Matthew H. Mead and Governor Steve Bullock, to Leah Baker, Acting Branch Chief for Planning and NEPA, BLM, U.S. Department of the Interior (May 25, 2016).

60. See *Hearing on State Perspectives on BLM's Draft Planning 2.0 Rule Before the House Subcommittee on Oversight and Investigations Committee on Natural Resources*, 114th Cong. (2016) (statement of Jeffrey Fontaine, Executive Director, Nevada Association of Counties).

61. See *BLM Planning Rule Given Support From Greens, Some Locals*, PUB. LAND NEWS, July 11, 2016, at 1-3.

62. *Id.*

lier, both the U.S. House of Representatives and the U.S. Senate voted to revoke the rule and President Trump signed the legislation on March 27, 2017. According to the Congressional Review Act, BLM may not propose any new rule that is substantially the same as Planning 2.0. This means that BLM resource management plans will be guided by antiquated planning rules that limit public participation.

These three examples—CFLRP, the Forest Service 2012 planning rule, and BLM Planning 2.0—represent a step forward in the way public land management agencies engage citizens, stakeholders, and other governments. There is a significant difference, however, between this type of government-sponsored collaboration and the type of homegrown collaboration that has emerged organically in the COTC and throughout the American West.

Community-based collaboration represents a fundamentally different type of decisionmaking relative to the conventional model of expert decisionmaking. Community-based collaboration is an inherently decentralized, democratic form of governing.⁶³ It seeks to shift the locus of decisionmaking from expert agencies to more of a shared decisionmaking approach. By contrast, government-sponsored collaboration is embedded within the expert model of decisionmaking, a system and a culture that is inherently centralized and hierarchical. Community-based collaboration facilitates a shared ownership of the process, decisions, and outcomes. By contrast, government-sponsored collaboration is at best advisory, and thus resembles conventional approaches to public participation that “seek input and advice” but do not (and cannot) share decisionmaking.⁶⁴

Despite this fundamental difference, the innovative approaches that federal land management agencies are using to foster public participation and shared problem solving represent a promising trend in public land management. Time will tell whether these innovations provide more direct and meaningful public participation; generate decisions that receive broad public support; and

make implementation easier because the stakeholders have helped shape the proposed plans and programs.

B. *Experimenting With Alternatives to the Existing System*

Beginning in the mid-to-late 1990s, several observers started calling for a series of pilot projects or experiments in governance as a way to foster more innovative (and effective) approaches to public participation, decisionmaking, and stewardship on public lands.⁶⁵ Taken as a whole, the idea was to foster a diverse portfolio of experiments on public land governance—similar, in part, to the idea of a diversified portfolio in the investment world. For example:

- In 1999, a broad-based group of participants came together in Colorado Springs, Colorado, to test the hypothesis that collaborative processes could and should be more effectively integrated into the decisionmaking process governed by NEPA.⁶⁶ Among other things, they called for pilot projects to test the possibilities and limits of collaboration, including the degree to which decisionmaking authority might be vested in collaborative groups.
- A different group meeting in the late 1990s, referred to as the Forest Options Group, suggested a collaborative governance option where a national forest plan would be written and the forest supervisor hired by a local board of directors.⁶⁷ The participants would be required to follow all environmental laws but would be allowed to depart from internal agency procedures for the purposes of making management decisions.
- Still another broad-based group, meeting at Lubrecht Forest outside Missoula, Montana, in 1998, recommended the creation of a new Region 7 of the Forest Service. The original Region 7 was absorbed into two other regions in 1966 and the regions were never renumbered, so there has not been a Region 7 for decades.⁶⁸ The new Region 7 would be a “virtual region” consisting of a diverse portfolio of pilot or experimental forests. Like the other proposals, it would include an opportunity for management plans to be written and implemented by a local collaborative group.

63. For a detailed explanation of this topic, see KEMMIS & MCKINNEY, *supra* note 43.

64. For a review of the idea of delegating authority over federal land decisions, see KEMMIS, *supra* note 10, at 117-49. Public land management agencies cannot delegate or devolve their congressionally derived management authority to a collaborative group. When the NPS sought to delegate its authority for the Niobrara National Scenic River to a local council composed largely of local government officials and private landowners, the court concluded that the agency went beyond the scope of its authority to foster a cooperative approach to management (*see National Parks & Conservation Ass'n v. Stanton*, 54 F. Supp. 2d 7 (D.D.C. 1999)). The governance arrangement was unlawful “because NPS retains no oversight over the Council, no final reviewing authority over the Council’s actions or inaction, and the Council’s dominant private local interests are likely to conflict with the national environmental interests that NPS is statutorily mandated to represent.” The NPS retained only one seat on the 11-member council, and the agency’s only recourse if it was unhappy with the council’s decisions and direction was to terminate the cooperative agreement altogether. These same delegation principles seemed to limit the ability of the Fish and Wildlife Service to delegate its authority over endangered species management to a local citizens management committee as proposed for grizzly bear reintroduction in the Selway-Bitterroot mountains. *See Sarah Van de Wetering, Bitterroot Grizzly Bear Reintroduction: Management by Citizen Committee?*, in *ACROSS THE GREAT DIVIDE*, *supra* note 17, at 150-59.

65. KEMMIS, *supra* note 10, provides an excellent review and critique of these various proposals.

66. O’CONNOR CENTER FOR THE ROCKY MOUNTAIN WEST, UNIVERSITY OF MONTANA & INSTITUTE FOR ENVIRONMENT AND NATURAL RESOURCES, UNIVERSITY OF WYOMING, *RECLAIMING NEPA’S POTENTIAL: CAN COLLABORATIVE PROCESSES IMPROVE ENVIRONMENTAL DECISION MAKING?* (2000).

67. *See THE SECOND CENTURY REPORT: A REPORT TO THE AMERICAN PEOPLE BY THE FOREST OPTIONS GROUP*, <http://www.io.org/2c.html>.

68. Donald Snow et al., *The Lubrecht Conversations*, 3 *CHRON. COMMUNITY* 5 (1998), reprinted in *ACROSS THE GREAT DIVIDE*, *supra* note 17.

- More recently, Prof. Robert Nelson has called for a series of “charter forests.”⁶⁹ Much like charter schools, the key principle of charter forests is freedom with accountability. Charter forests would be freed from the centralized administration of the Forest Service, and management would devolve to autonomous forests capable of more creative and locally responsive management.

The common theme in all four of these proposals is that they would turn planning and management—not ownership—over to community-based partnerships, something like the Blackfoot Challenge. The intent is to design legal and institutional arrangements around the principle of “accountable autonomy.”⁷⁰ This principle, originally articulated by Prof. Archon Fung at Harvard University, integrates the two competing forces behind devolution—holding individuals and groups accountable to the goals and aspirations of national environmental laws while giving those people autonomy in terms of how to balance competing needs and interests (e.g., local, regional, and national). Just as “inside the box” innovations allow the agencies to demonstrate their willingness and capacity to incorporate collaborative methods within established procedures, these community-based collaborative experiments would give diverse groups of stakeholders a chance to prove they are capable of ecologically sustainable stewardship of public lands.

Within the past few years, there have been additional calls for similar experiments in co-management, or what Kirk Emerson, the founding director of the U.S. Institute for Environmental Conflict Resolution, refers to as “collaborative federalism,” where joint decisionmaking occurs among multiple governing units, in contrast to divided and distributed decisionmaking.⁷¹ Although the original presidential proclamation creating Bears Ears National Monument did not establish a formal tribal co-management requirement, tribal leaders called for such an arrangement in their proposal to President Obama.⁷² Likewise, tribal leaders, conservationists, and others are calling for some type of co-management arrangement to manage the Badger-Two Medicine sacred area in the COTC.⁷³

69. ROBERT H. NELSON, CHARTER FORESTS: A NEW MANAGEMENT APPROACH FOR NATIONAL FORESTS (PERC Policy Series No. 53, 2015).

70. See MATTHEW MCKINNEY & WILL HARMON, THE WESTERN CONFLUENCE: A GUIDE TO GOVERNING NATURAL RESOURCES 190 (2004).

71. See Kirk Emerson & Peter Murchie, *Collaborative Governance and Climate Change: Opportunities for Public Administration*, in THE FUTURE OF PUBLIC ADMINISTRATION, PUBLIC MANAGEMENT, AND PUBLIC SERVICE AROUND THE WORLD: THE MINNOWBROOK PERSPECTIVE (Rosemary O’Leary et al. eds., Georgetown Univ. Press 2011); KIRK EMERSON & TINA NABATCHI, COLLABORATIVE GOVERNANCE REGIMES (2015).

72. Presidential Proclamation, Establishment of the Bears Ears National Monument (Dec. 28, 2016). See also BEARS EARS INTER-TRIBAL COALITION, PROPOSAL TO PRESIDENT BARACK OBAMA FOR THE CREATION OF BEARS EARS NATIONAL MONUMENT (2015), <http://www.bearscoalition.org/wp-content/uploads/2015/10/Bears-Ears-Inter-Tribal-Coalition-Proposal-10-15-15.pdf>; PROPERTY AND ENVIRONMENT RESEARCH CENTER & SUTHERLAND INSTITUTE, ISSUE BRIEF: TRIBAL CO-MANAGEMENT OF THE BEARS EARS NATIONAL MONUMENT (2017).

73. This case has a long and complex legal and political history. See Michael J. Dax, *How Tribes Led the Fight Over Badger-Two Medicine Oil and Gas Leases*,

The limitation of these suggestions for experiments in public land governance is that they require either the president or Congress—or both—to create the legal and institutional space to experiment with different models of governance. While many people support this strategy, Congress and the Trump Administration are currently more focused on rolling back President Obama’s environmental achievements, promoting energy development on public lands, and transferring decisionmaking power, if not outright ownership, to the states through various mechanisms.⁷⁴ It is important to emphasize that these calls for a portfolio of experiments in public land governance are completely different than ongoing efforts to transfer federal lands to the states.

While the call for a series of pilot projects or experiments in governance may grow out of a frustration with the existing federal land management system, the arguments in support of pilot projects recognize the fundamental effectiveness of homegrown, innovative, collaborative approaches to federal land management, and seek to create legal and institutional space to replicate these types of arrangements as a matter of public policy. They recognize the value of sharing responsibility to solve public land problems, not by shifting who owns federal lands, but by working together across political, jurisdictional, and other boundaries. Rather than building on this growing legacy of sharing responsibility and problem solving in the Rocky Mountain West and elsewhere, the current political debate revolves around a winner-take-all approach to policy and governance.

IV. Conclusion

Democracy is a work in progress, and any and all innovations and experiments to improve the process of public participation and shared problem solving in federal land management should be welcome. A diversity of approaches, bottom-up and top-down, is most likely to foster a healthy, high-functioning “ecology of governance.” Highlighting the greater sage-grouse conservation effort, Interior Secretary Sally Jewell argued that the future of federal land management revolves around collaboration at the scale of large landscapes. “That big picture, roll-up-your-sleeves, get-input-from-all-stakeholders kind of planning is how land management agencies should orient themselves in the 21st century,” she wrote in April 2016.⁷⁵

HIGH COUNTRY NEWS, May 12, 2016. See also JOHN L. WEAVER, WILDLIFE CONSERVATION SOCIETY, VITAL LANDS, SACRED LANDS: INNOVATIVE CONSERVATION OF WILDLIFE AND CULTURAL VALUES BADGER-TWO MEDICINE AREA, MONTANA (2015).

74. For a review of the legal arguments for and against the so-called transfer movement, see KEITER & RUPLE, *supra* note 11. See also PETER MICHAEL ET AL., REPORT OF THE PUBLIC LANDS SUBCOMMITTEE, WESTERN ATTORNEYS GENERAL LITIGATION ACTION COMMITTEE, CONFERENCE OF WESTERN ATTORNEYS GENERAL (2016), which provides a detailed legal analysis of this topic and concludes that forcing the transfer of federal public land to states via litigation or congressional legislation stands little chance of succeeding in the courts based on previous court cases and rulings.

75. Sally Jewell, The Next 100 Years of American Conservation, Remarks Before the National Geographic Society (Apr. 19, 2016).

As calls for reform, experimentation, and innovation continue, it is important to acknowledge and respond to the legitimate issues and concerns that many people have raised since the emergence of the so-called collaboration movement.⁷⁶ Although a review of the arguments for and against collaboration is beyond the scope of this Comment, it is useful to emphasize that collaboration is not a panacea, that it does not replace existing environmental laws, and that agencies cannot abdicate their decisionmaking authority. As Martin Nie and Peter Metcalf recently concluded in these pages, both collaboration and litigation are necessary components of modern federal land management.⁷⁷

Likewise, any effort to promote and support collaborative approaches to federal land and resources management—especially the type of community-based collaboration highlighted here—should carefully consider the barriers and obstacles to catalyzing, enabling, and sustaining such efforts.⁷⁸ The art and science of convening, facilitating, and implementing collaborative processes is well-known and documented, but that does not prevent some individuals and organizations from strategically opting out of such processes and/or showing up at the 11th hour to blow up the entire process and its outcomes.⁷⁹ These and other challenges are not reasons to avoid the use of collaboration and shared problem solving, but do compel participants to keep their eyes and ears open and to seek ways to accommodate the naysayers.

Finally, the ongoing practice and evolution of collaborative problem solving should be informed by a comprehensive set of metrics to measure the progress, success, and outcomes of such processes relative to the alternatives—most often administrative decisionmaking and litigation.⁸⁰

In other words, it may be useful to (1) measure the performance of collaborative problem solving in and of itself using some agreed upon metrics; and (2) compare the results of collaboration to the next best alternative, such as administrative decisionmaking and/or litigation.

Assuming for the moment that there is agreement on the criteria for evaluating public processes, the question is: which process tends to produce better results and under what circumstances? A number of additional evaluative questions might be addressed along these lines, including: Are outcomes implemented as intended? What happens to outcomes when the world changes around them? Are they adapted to new information and ideas, unforeseen consequences, and the like? Are outcomes produced through collaboration easier to implement than outcomes produced through other public processes? What is the impact on the ground? Is it consistent with the objectives of the participants?

Despite the rhetoric about all the problems facing public lands in the American West, it is encouraging to see leaders from many walks of life searching for innovative approaches to address land, water, and related issues at different geographic and temporal scales; dealing with complexity, uncertainty, and change; acknowledging and making sense of the diverse community of interests; and giving citizens more meaningful opportunities to be involved in decisionmaking.⁸¹ Collaboration—perhaps better referred to as shared problem solving—is increasingly the forum of first resort for one simple reason—it works.

76. The arguments for and against this movement are summarized and examined in Robert J. Golton, *Mediation: A "Sellout" for Conservation Advocates or a Bargain?*, 2 ENVTL. PROF. 62-66 (1980); Michael McCloskey, *The Skeptic: Collaboration Has Its Limits*, HIGH COUNTRY NEWS, May 13, 1996; George Cameron Coggins, *Of Californicators, Quislings, and Crazies: Some Perils of Devolved Collaboration*, in ACROSS THE GREAT DIVIDE, *supra* note 17, at 163-71; Karen Coulter et al., Collective Statement on Collaborative Group Trends (undated manuscript); and DOUGLAS S. KENNEY, UNIVERSITY OF COLORADO SCHOOL OF LAW, ARGUING ABOUT CONSENSUS: EXAMINING THE CASE AGAINST WESTERN WATERSHED INITIATIVES AND OTHER COLLABORATIVE GROUPS ACTIVE IN NATURAL RESOURCES MANAGEMENT 1-7 (2000). See also E. FRANKLIN DUKES ET AL., UNIVERSITY OF VIRGINIA ET AL., COLLABORATION: A GUIDE FOR ENVIRONMENTAL ADVOCATES (2001).

77. Martin Nie & Peter Metcalf, *National Forest Management: The Contested Use of Collaboration and Litigation*, 46 ELR 10208 (Mar. 2016).

78. The barriers and obstacles to the effective use of negotiation, mediation, and collaboration in natural resources law, policy, and governance are well-documented. Perhaps the most comprehensive assessment is JULIA M. WONDOLLECK & STEVEN L. YAFFEE, MAKING COLLABORATION WORK: LESSONS FROM INNOVATION IN NATURAL RESOURCES MANAGEMENT (2000).

79. The standard reference on the theory and practice of collaboration and consensus building is LAWRENCE SUSSKIND & JENNIFER THOMAS-LARMER, THE CONSENSUS BUILDING HANDBOOK (2004).

80. For a review of this debate, start by seeing Douglas S. Kenney, *Are Community-Based Watershed Groups Really Effective? Confronting the Thorny Issue of Measuring Success*, in ACROSS THE GREAT DIVIDE, *supra* note 17, at 188-93; William D. Leach et al., *Stakeholder Partnerships as an Emergent Form of Collaborative Policymaking: Evaluation Criteria Applied to Watershed Management in California and Washington*, 21 J. POL'Y ANALYSIS & MGMT. 645-70 (2003); Alexander Conley & Margaret A. Moote, *Evaluating Collaborative Natural Resources Management*, 16 SOC'Y & NAT. RESOURCES

371-86 (2003); JUDITH E. INNES, EVALUATING CONSENSUS BUILDING, THE CONSENSUS BUILDING HANDBOOK 647-59 (2004); Matthew McKinney & Patrick Field, *Evaluating Community-Based Collaboration on Federal Lands and Resources*, 21 SOC'Y & NAT. RESOURCES 419-29 (2008); and Kirk Emerson et al., *Environmental Conflict Resolution: Evaluating Performance Outcomes and Contributing Factors*, 27 CONFLICT RESOL. Q. 27-64 (2009). The recent work on evaluating the performance of collective impact may offer some additional insight on this set of questions. For more information, see HALLIE PRESKILL ET AL., COLLECTIVE IMPACT FORUM & FSG, GUIDE TO EVALUATING COLLECTIVE IMPACT: LEARNING AND EVALUATION IN THE COLLECTIVE IMPACT CONTEXT.

81. Another recent example of this trend is the coalition of 130 or so organizations that have come together under the leadership of the Western Landowners Alliance, Partners for Conservation, and Rural Voices for Conservation. See Jennifer Yachin, *3 Western Groups Unite to Promote Common Sense Land Policy*, ENERGY & ENV'T NEWS, Oct. 16, 2017. The coalition has articulated six principles that should guide federal land management, including large-scale resource planning across boundaries; voluntary, market-based programs; and collaborative problem solving.