NATURAL RESOURCES CONFLICT RESOLUTION

LAW 613 / ENST 513 / NRSM 513
The University of Montana
Offered Fall Semester

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Course Description

Conflicts over natural resources and the environment are ubiquitous. The purpose of this course is to examine the causes, dynamics, and consequences of natural resource conflicts, as well as the range of possible approaches to prevent and resolve such conflicts. The course will consider the merits of conventional approaches to addressing natural resources conflicts and emphasize the theory and methods of collaboration. It will conclude by considering innovations in the theory and practice of natural resources conflict resolution.

Drawing on the history of natural resource policy and conflict resolution, the course posits that conventional approaches to prevent and resolve natural resource and environmental conflicts – legislative, administrative, and judicial – often leave citizens, advocates, and decision-makers dissatisfied with the outcome. This dissatisfaction in turn leads to a recurrence of disputes, which strains relationships and increases transaction costs. During the past 45 years, scholars, policy-makers, and advocates representing various perspectives have increasingly realized that one of the most effective ways to prevent and resolve natural resource conflicts is to create opportunities for the right people to come together with the best available information to address issues of common concern.

The core proposition of this "collaborative" approach to preventing and resolving conflicts is that it provides more meaningful opportunities for citizen participation, fosters more informed decisions, produces more durable and widely supported outcomes, improves relationships, and minimizes the costs of disputing. Furthermore, many complex natural resource challenges

cannot be adequately addressed without employing collaborative approaches that work across jurisdictions and sectors and include diverse communities. Although it emerged largely in the context of natural resources and environmental policy, the collaborative approach to citizen participation and public dispute resolution is applicable to a wide-range of public issues and cultural contexts.

This course is designed for graduate students in law, forestry, conservation, environmental studies, communication, journalism, geography, planning, political science, public administration, international conservation and development, Native American studies, and other disciplines. It is also designed for practitioners and professionals interested in boosting their skills and experience through the Natural Resources Conflict Resolution Graduate Certificate Program. Through readings, case studies, exercises, simulations, projects, and guest speakers, students are introduced to the "art" and "science" of collaboration and conflict resolution, particularly as it applies to land-use, natural resource, and environmental issues. The course critically examines established theory and methods, as well as cutting-edge ideas, methods, and practices.

By the end of the course, students will be able to:

- Understand the causes, dynamics, and consequences of natural resource and environmental conflicts;
- Understand the range of possible approaches to prevent and address such conflicts;
- Gather appropriate information and assess the need for public engagement, dialogue, conflict resolution, or collaboration;
- Design public processes that are inclusive, informed, and deliberative;
- Adapt these principles to public participation, community-based and landscape –scale collaboration, administrative rulemaking, strategic planning, environmental impact assessment, land-use and resource planning, and legislative policymaking;
- Participate effectively in multi-party public processes;
- Understand the role and value of process managers (facilitators and mediators);
- Adapt the principles and strategies explored to science-intensive public issues; intractable public disputes; regional, trans-boundary issues; processes involving Tribes & First Nations; and to advance social and environmental justice;
- Understand the value of integrating diverse ways of knowing into multi-party problem solving processes; and
- Understand the implications of current trends in citizen participation, deliberative democracy, and the governance of natural resources.

While there is no prerequisite for this course, participants should have a working knowledge of natural resources policy, including the politics of formulating and implementing such policy. A graduate course in natural resources policy and administration is strongly recommended.

Throughout the semester, we will take advantage of opportunities to share the ongoing work of the Center for Natural Resources & Environmental Policy. Realizing that this course focuses on

natural resources conflict resolution in the United States -- particularly the American West -- we will also attempt to integrate best practices from around the world and to explore how the American experience might be instructive in other regions of the world and vice versa.

Readings for the course are available on the university's Moodle site. Supplemental readings, videos, podcasts, etc. will be provided to augment core readings on some topics.

This is the foundational course of the university's interdisciplinary *Natural Resources Conflict Resolution Graduate Certificate Program*. For more information on the program, please go to https://naturalresourcespolicy.org/natural-resources-conflict-resolution/default.php.

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COURSE OVERVIEW

Part 1: Historical Perspectives

Session 1 The Nature of Natural Resources Conflict

Session 2 Civic Engagement

Session 3 The Role of Law, Policy, and Regulation

Part 2: Emergent Roles for Citizens, Experts, and Decision-makers

Session 4 The Emergence of Negotiation and Mediation

Session 5 Community-based Collaboration

Session 6 Scaling Up to Systems-based Solutions

Part 3: Theory and Methods of Collaboration

Session 7 Reflecting on Collaboration: Critiques and Indicators of Success

Session 8 Analyzing the Conflict or Situation

Session 9 Designing an Effective Collaborative Process

Session 10 The Role of Science, Technical Information, and Diverse Ways of Knowing

Session 11 Deliberating and Deciding

Session 12 Implementing Agreements and Adaptive Management

Part 4: Innovations in Theory and Practice

Session 13 Toward More Effective Outcomes

Session 14 Building Your Collaborative Practice

Final Exam

COURSE REQUIREMENTS AND EXPECTATIONS[1]

In addition to learning about the history, theory, and methods of addressing natural resources conflicts, this course emphasizes two essential skills – critical thinking and communication. The following course requirements and expectations are designed to help everyone develop and refine these two essential skill sets.

Attend and Participate in Class = 28 points
The essence of collaboration is "informed engagement." To practice this core skillset, you will receive a maximum of 2 points for every class for a total of 28 points. Given that class sessions rely on dialogue and conversation, each student should complete all assignments (readings, podcasts, videos, etc.) prior to class, introduce outside knowledge and experience, and fully engage in discussion and simulations. The goal is to engage the entire class, not just a few committed students. If you cannot attend class, you may earn 1 point by completing all of the assignments for that class and preparing a two-paragraph summary on the readings in the context of the unfolding narrative of the class. Unexcused absences will earn zero points.

Lead a Seminar = 15 points
Students will work in small groups to organize and lead one engaging, interactive **75-minute** seminar based on selected sessions. While you should feel free to frame the discussion and activities in whatever way makes the most sense to you, make sure to address the following questions: (1) What are the primary issues and major questions for this week's topic?? (2) What argument (if any), theoretical or applied, is being presented and how is it being supported? (3) What theory, methods, concepts, and evidence are introduced? (4) How is the topic related to other topics this semester? (5) So what? What insights and contributions does the focus for this week's discussion offer? What's missing? What voices are missing?

Course instructors will work with students to help them prepare to lead a seminar after they have reviewed the materials and developed a preliminary framework for presentation and discussion.

The seminar will be graded using the following criteria:

- Preparing: Was the group well prepared? Did they seem knowledgeable and comfortable with the readings being discussed and reviewed?

- Summarizing and Engaging the Material: Was the seminar effective and organized? Did the group tie-in and integrate class materials and discussions (especially important as the semester progresses), e.g., course readings, discussions, etc.? Did the group recognize the primary issues addressed in the week's assignments? Was the format

[1] *All students must practice academic honesty. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University.*

for connecting with the material engaging?

- Facilitating Class Discussion: Did the group help the class work through difficult questions? Were they able to respond to other students' questions and comments?

As you prepare to lead a seminar, we strongly recommend exploring the excercises included in *Reflection Methods: a Practical Guide for Trainers and Faciltiators*[2] as a resource to develop an engaging and dynamic learning experience in class. A complete copy of the guide can be found on Moodle.

Write a Professional Memo = 35 points (10 points for draft / 25 points for final)
One of the most important skills to learn as a graduate student – regardless of your career path – is how to think critically and write concisely. The goal here is not to write another 30-page research paper. More times than not, when you enter the workforce you will be asked to do just as much research as you would for a 30-page paper, but to then synthesize the information into a short memorandum. The purpose of this assignment is to provide you an opportunity to explore more thoroughly and thoughtfully a particular issue related to natural resources conflict and collaboration. It is also an opportunity to apply some of the theory and methods reviewed during class sessions.

Each student will prepare a professional memo on a topic related to natural resources conflict resolution and collaboration that is of particular interest to them. The structure and content of the memo will vary depending on the topic and audience, but each memo should follow the guidelines presented in "How to Write an Effective Professional Memo," which is posted on the course's Moodle site.

Potential topic areas include but are not limited to the following:

1. Water policy, conflict resolution, and governance
2. Public lands law, policy, and conflict resolution
3. Large landscape and transboundary conservation and stewardship
4. Tribes, Indigenous peoples, and natural resources management
5. Environmental peacemaking
6. International trends and case studies in natural resources policy, conflict resolution, and governance
7. Integrating Justice, Equity, Diversity, and Inclusion into natural resources policy and decision-making

By Session #7,each student should submit a full draft of their professional memo for the

[2] *Femke Gordijn, Natalia Eernstman, Jan Helder, Herman Brouwer, Reflection Methods: Practical Guide for Trainers and Facilitators (2018): 6-35.*

instructors' review. The instructors will then schedule 30-minute sessions with each student to provide feedback on these drafts and answer any questions a student has.

Professional memos will be graded on the basis of (1) writing and communication -- including clarity, level of articulation, and grammar; (2) research and analysis -- level of critical analysis, research, and specificity; (3) course materials -- amount of synthesis and integration of course readings and discussions; (4) formal citation (whatever style you prefer, e.g., parenthetical reference, footnote, endnote, legal, etc.); and (5) presentation.

Observe a Conflict Resolution or Collaborative Process = 10 points

A helpful way to deepen your understanding of the topics explored in this course is to observe real life examples of collaboration and conflict resolution around environmental and natural resources issues. To this end, each student should attend at least one event during the semester to observe a *natural resources conflict resolution or collaborative process* in action, and **send a brief email summary to the instructors within one week of the event** describing (1) what the event entailed and (2) key insights you had from observing the event. We will share event opportunities throughout the semester, including public meetings, standing meetings of collaborative groups, conferences, workshops, and online events you can observe and/or participate in. Events not explicitly pertaining to or involving natural resources conflict resolution or collaboration around environmental issues will not count towards this assignment.

Final Exam = 12 points

Using the short essay by Lawrence Susskind "Fifteen Things We Know about Environmental Dispute Resolution," please articulate the top ten things you know about natural resources conflict resolution and the top five lingering questions that remain. Use the format of the Susskind essay by writing concise, compelling statements that clearly state the "what" and "why." Please include appropriate citations.

Grading Scale

93-100	A
90-92	A-
88-89	B+
83-87	B
80-82	B-
78-79	C+
73-77	C
70-72	C-
68-69	D+
63-67	D

Student Conduct Code

All students must practice academic honesty. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University. All students need to be familiar with the Student Conduct Code.

Important Dates for Dropping a Course, Fall Semester

Deadline	Description
The 15th instructional day	Students can drop classes on CyberBear with a refund and no "W" on her or his transcript.
16th to 45thinstructional day	Dropping a class requires completing a form with the instructor's and advisor's signature as well as a $10 fee from registrar's office. The student will receive a 'W' on transcript; no refund will be issued.
Beginning the 46th instructional day	Students are only allowed to drop a class under very limited and unusual circumstances. Not doing well in the class, deciding you are concerned about how the class grade might affect your GPA, deciding you did not want to take the class after all, and similar reasons **are not** among those limited and unusual circumstances. If you want to drop the class for these sorts of reasons, make sure you do so by the end of the 45th instructional day of the semester. Requests to drop must be signed by the instructor, advisor, and Associate Dean (in that order), so if you pursue this request, leave sufficient time to schedule meetings with each of these individuals (generally this will take at least 3-5 working days). A $10 fee applies if approved. Instructor must indicate whether the individual is passing or failing the class at the time of the request.

Students with Disabilities
The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and the Office for Disability Equity. If you have a disability that adversely affects your academic performance, and you have not already registered with Office of Disability Equity, please contact the Office of Disability Equity on the 1st floor of amber hall or at 406-243-2243. We will work with you and the Office for Disability Equity to provide an appropriate modification.

Illness
The fall semester often coincides with the start of higher transmission levels of cold, flu, COVID, and other illnesses. We can explore opportunities for you to connect to class via Zoom if you are sick or concerned about contracting communicable diseases by attending class. Please reach out in advance of each class session if you would like to participate but cannot attend in person.

Writing Center
Effective writing is a valuable skill in this course and many other areas of life. The Writing Center on campus provides one-on-one tutoring to students at all levels and at any time in the writing process, and is a great resource to help you strengthen your writing. You can reach out to them and benefit from their support by visiting *www.umt.edu/writingcenter*.

1. THE NATURE OF NATURAL RESOURCES CONFLICT

This session provides an introduction and overview to the course. We will review the nature of natural resources and environmental conflicts, explore the dynamics of competitive and cooperative approaches to preventing and resolving such conflicts, and review the requirements and schedule for the course.

Discussion Questions

1. What is conflict, and what are your perceptions or feelings about conflict? What are some common connotations about conflict? Is conflict good, bad, or both?
2. What are the central elements of any conflict? Review the typical progression of a natural resources conflict to clarify how these elements interact and influence one another.
3. What causes natural resources and environmental conflicts? Discuss why it is important to understand the cause and/or nature of natural resources conflicts in order to effectively manage and address them. Why is process so important to prevent, manage, and resolve natural resources conflicts?
4. Assess your personal style or approach to conflict by completing the *Thomas- Kilmann Conflict Management Assessment*. Discuss the merits of alternative personal approaches to conflict management.

Readings

1. Stephen Daniels and Gregg Walker, Working through Environmental Conflict (2001): 26-33.
2. Susan L. Carpenter and W.J.D. Kennedy, Managing Public Disputes (1988): 11-17.
3. Matthew McKinney and Will Harmon, The Western Confluence (2004): 18-30.
4. Julia Wondolleck, The Importance of Process in Resolving Environmental Disputes (1985): 341-342.
5. Thomas-Kilmann Conflict Management Assessment
6. Glossary of Terms: Natural Resources and Environmental Conflict Resolution

Media

7. Disagree Better – Saving Your Family Dinner – National Governors Association

2. CIVIC ENGAGEMENT

One of the best ways to prevent or mitigate conflict over natural resources and environmental issues is to provide meaningful opportunities for citizens and stakeholders to be involved in policy, planning, and management decisions that affect them. While the theory and legal framework for public participation in the United States is compelling, it often leaves participants and decision-makers frustrated and dissatisfied with the outcome.

Discussion Questions

1. The basic question Jefferson and Madison attempted to answer in creating the U.S. Constitution was ... "should the burden of solving public problems rest most directly on citizens or on government?" Explain the philosophical arguments of Jefferson and Madison and explore the implications to natural resources policy and conflict resolution. Which philosophical framework do you most agree with and why?
2. Why should citizens be involved in natural resources decisions? What are the arguments supporting citizen participation? What are the arguments against?
3. Review the legal framework for public participation. How well does this legal framework support one or more of the reasons to involve citizens in natural resources decisions?
4. "What is missing" in conventional public participation processes? And what are the pitfalls or problems related to public participation in natural resources decision-making? Identify what citizens want in a public process, and why they often don't participate.
5. Reflecting on the perspectives shared in the *Amskapi Piikani – Blackfeet Nation* episode of *Life in the Land*, how might citizen engagement in natural resources decisions differ across cultural contexts?

Readings

1. Daniel Kemmis, Community and the Politics of Place (1990): 9-16.
2. Thomas C. Beierle and Jerry Cayford, Democracy in Practice: Public Participation in Environmental Decisions (2002): 2-4.
3. Sherry Arnstein, A Ladder of Citizen Participation (1969): 216-18.
4. Daniel Yankelovich, The Magic of Dialogue: Transforming Conflict into Cooperation (1999): 169-176.
5. International Association for Public Participation, Core Values, Code of Ethics, Spectrum, and Tools of Public Participation (2010): 18 Pages.
6. Our Common Purpose, Report of the American Academy of Arts and Sciences, Introduction, pages 1-5.
7. Eaton, et. al., Advancing the scholarship and practice of stakeholder engagement in working landscapes: a co-produced research agenda, Socio-Ecological Practice Research (2022).

Media

1. *Life in the Land: Amskapi Piikani – Blackfeet Nation.* Directed by Lara Tomov and produced by Lailani Upham, Stories for Action and Iron Shield Creative, 2022.

Optional Readings/Media

- "The Excess of Democracy." *Scene on Radio Season Two,* from PRX, January 22, 2020, http://www.sceneonradio.org/s4-e2-the-excess-of-democracy.

3. THE ROLE OF LAW, POLICY, & REGULATION

When conventional approaches to public participation fail to satisfy the interests of citizens and stakeholders, people have the opportunity to challenge both the decision-making process and its outcomes through administrative appeals and litigation. While litigation and the courts are often the forum of last resort, they play an important role in framing issues, highlighting points of agreement and disagreement, and providing the incentive to resolve outstanding conflict through more cooperative methods.

This session includes a student-led seminar.

Discussion Questions

1. According to Sax, as well as Bacow and Wheeler, what are the arguments for and against litigation and the courts as a way of making decisions and resolving natural resources conflicts?
2. What is the most appropriate use of litigation and the courts? When is it most appropriate? Least appropriate? Why do some groups prefer litigation over other approaches to influence policy and management? Consider the four criteria for determining "which approach is best", included on page 29 of McKinney and Harmon's *The Western Confluence* (see readings for session 1).
3. Given the cost and benefits of litigation to resolve natural resources conflict, should the core issue of "standing" be reconsidered? Who should participate in governing or making decisions about the use of natural resources? Should natural objects have standing?
4. What is the relationships between regulatory and/or legal enforcement as a way to resolve conflict and other approaches?

Readings

1. Martin Nie, The Underappreciated Role of Regulatory Enforcement in Natural Resources Conservation (2008): 147-151.
2. Joseph L. Sax, Defending the Environment: A Strategy for Citizen Action (1971): 108-124.
3. Lawrence S. Bacow and Michael Wheeler, Environmental Dispute Resolution (1984): 12-18.
4. Christopher M. Klyza and David J. Sousa, From "Who Has Standing?" to "Who Is Left Standing?": The Courts and Environmental Policymaking in the Era of Gridlock (2013): Selected Pages.

Media

1. Kelsey Leonard, *Why lakes and rivers should have the same rights as humans*, from TED, January 14, 2020, https://www.youtube.com/watch?v=opdCfb8cCFw

4. THE EMERGENCE OF NEGOTIATION AND MEDIATION

Negotiation and mediation (increasingly captured by the all-encompassing term "collaboration") emerged in the late 1970s in response to the limitations of the conventional approaches to addressing natural resources and environmental conflict – public participation and litigation. While increasingly popular, collaboration is only one approach among many. This session will review the incentives to negotiate or collaborate; clarify what enables and constrains such processes; review the principles, processes, and common methods for collaboration; and examine the legal framework for collaboration.

Discussion Questions

1. Using the case study on instream flow policy, discuss the following questions:
   a. What *compels* individuals and organizations to negotiate or collaborate?
   b. What *constrains* environmental negotiation?
   c. What *enables* participants to be successful? In other words, what are the key elements to success (e.g., the role of mediators)?
2. How does this case study reveal new roles for citizens, experts, and decision-makers in resolving natural resources conflicts and shaping natural resources policy? Reflect on the difference between public *participation* and shared *decision-making*. Does this case amount to official decision-makers (e.g., legislators, agency officials, and others) abdicating their decision-making authority?
3. What does this case study suggest in terms of a prescriptive framework or phases to environmental negotiation and collaboration? Does this framework suggest that multiparty negotiation is a linear process, or is it more dynamic?
4. What lessons does the Bingham article suggest in terms of the history and trajectory of natural resources conflict resolution? Think in terms of place-based and policy-oriented applications, as well as *ad hoc* vs. more systematic, institutionalized applications.
5. Refer to the readings on the legal framework for environmental negotiation, mediation, and collaboration. How, if at all, does this framework catalyze, enable, and constrain collaborative processes in practice?

Readings

1. Matthew McKinney, Building Agreement on Water Policy: From Conflict to Community (1997): 17 Pages.
2. Matthew McKinney and Will Harmon, The Western Confluence (2004): 201-215.
3. Candace Carr Kellman et al., Practitioner Brief on Factors for Effective Environmental Management Collaboration (2018). 4 pages.
4. Gail Bingham, Resolving Environmental Disputes: A Decade of Experience (1985): 14 Pages.

5. Sarah Bates, The Legal Framework for Cooperative Conservation (2006): 24 Pages.

Examples

- Montana Wildlife & Transportation Partnership
- Montana Citizens' Elk Management Coalition

5. COMMUNITY-BASED COLLABORATION

In the 1980's and 90's, collaboration slowly gained traction as a practical way to solve local, place-based issues. Throughout the American West, this movement is defined by two key elements. First, citizens and/or communities catalyzed, convened, and coordinated these efforts – in contrast to waiting for local, state, or federal government officials to provide such opportunities. Second, these efforts tend to revolve around watersheds, ecosystems, and other places defined by natural boundaries – not artificial political boundaries.

This session includes a student-led seminar.

Discussion Questions

1. According to Wilkinson, what is the "ethic of place?" What are the key components of this "ethic of place?" What is Wilkinson's core argument in support of such a theory and practice?
2. How are the citizen-driven, place-based, and/or Indigenous-led collaboration movements similar to and/or different from the more conventional approaches to environmental conflict resolution discussed in the previous sessions?
3. Assuming that homegrown, community-based collaboration works, can agencies catalyze, convene, and successfully coordinate such initiatives? Why or why not (see Kemmis)?
4. What is the issue or concern about delegating decision-making authority to community-based collaborative groups? What options or strategies do Kemmis and others suggest in response to this challenge?
5. Considering the numerous examples of community-based collaborative groups and collaborative governance approaches offered in this section, which one(s) stood out to you as most compelling? Why?

Readings

1. Charles F. Wilkinson, Law and the American West: The Search for an Ethic of Place (1988): 404-410.
2. Daniel Kemmis, This Sovereign Land: A New Vision for Governing the West (2001): 117-149.
3. Martin Nie and Michael Fiebig, Managing National Forests through Place-Based Legislation, *Ecology Law Quarterly* (2010): 22 Selected Pages.
4. Blackfoot Challenge, *Blackfoot Watershed Stewardship Guide* (2022): 1-36.
5. Lexi Pandell, What Stewardship Looks Like in the Santa Cruz Mountains, *Bay Nature Magazine* (2020).
6. Artelle, K. A., Zurba, M., Bhattacharyya, J., Chan, D. E., Brown, K., Housty, J., & Moola, F. (2019). Supporting resurgent Indigenous-led governance: A nascent mechanism for just

and effective conservation. Biological Conservation, 240, 108284. https://doi.org/10.1016/j.biocon.2019.108284¤

Media

1. *Life in the Land: Central Montana Plains.* Directed by Lara Tomov, Stories for Action, 2022.

Optional Readings/Media

- Best Practices for Community-based Collaboration

Examples

- The MICA Group
- Montana Watershed Coordination Council
- Blackfoot Challenge
- Swan Valley Connections
- Winnett Aces
- Ruby Valley Strategic Alliance

6. SCALING UP TO SYSTEMS-BASED SOLUTIONS

In the face of today's large, complex, and dynamic natural resources problems, decision-makers and communities are recognizing the need to scale-up solutions to address system-wide challenges. Partnerships, collaborative groups, and networks are increasingly being formed and leveraged to implement cross-boundary solutions to landscape-scale and regional challenges. By working across jurisdictions, sectors, and perspectives, proponents argue that these 'scaled-up' approaches are uniquely positioned to catalyze systems-based solutions to our most challenging natural resources issues.

Discussion Questions

1. What is the role of informal partnerships and networks in addressing large-scale and complex natural resources challenges? How do these approaches relate to other approaches to addressing natural resources challenges explored in this course?
2. How do large-scale partnerships and networks arise? What roles do citizens, decision-makers, and practitioners play in the creation and growth of large-scale collaborative efforts?
3. How do networks work? How is information generated and distributed? How is power shared? How are priorities identified? How are roles identified? Who's accountable?
4. What kinds of impact can a network create? How do we know if a network is working?

Readings

1. Lynn Scarlett and Matthew McKinney, Connecting People and Places: The Emerging Role of Network Governance in Large Landscape Conservation (2016).
2. Bodin, Örjan, Collaborative environmental governance: Achieve collective action in social-ecological systems, Science 357, eaan1114 (2017).
3. Folke, Carl et al. Our Future in the Anthropocene Biosphere: Global sustainability and resilient societies. Beijer Discussion Paper Series No. 272 (2020): 33-47.
4. California Landscape Stewardship Network, 2021-2023 Strategic Roadmap (2020): 1-8.

Media

- *Impact Networks: Creating Change in a Complex World*. Directed by Caroline Campbell, The Hive Studio, 2022.

Additional Examples

- Regional Forest and Fire Capacity Program
- High Divide Collaborative
- Southeast Conservation Adaptation Strategy
- Regional Conservation Partnership Network
- Western Collaborative Conservation Network
- Network for Landscape Conservation
- California Landscape Stewardship Network

7. REFLECTING ON COLLABORATION: CRITIQUES AND INDICATORS OF SUCCESS

The premise of collaboration is that, if you bring together the right people in a constructive forum with the best available information, they can shape sustainable solutions that integrate most (if not all) interests. This module will critically examine the arguments against collaboration alongside an exploration of indicators of success.

This session includes a student-led seminar.

Discussion Questions

1. Review the arguments against collaboration. Which of these arguments do you find most compelling and why? Which arguments are least persuasive and why?
2. What does a successful collaborative process look like? What does it achieve? Discuss the various indicators for success presented in the literature, and identify criteria for evaluating the success or progress of a collaborative process. Discuss whether the indicators of success you have selected should be applied to other approaches to natural resources decision-making (e.g., public participation, litigation, etc.). Explore the following questions – what is good natural resources governance, and what conditions/criteria are useful in determining whether good governance results in desired outcomes?

Readings

Critiques of Collaboration

1. Robert J. Golton, Mediation: A 'Sellout' for Conservation Advocates or A Bargain? *The Environmental Professional* (1980): 62-66.
2. Michael McCloskey, "The Skeptic: Collaboration Has Its Limits," *High Country News* (May 13, 1996): 4 pages.
3. George Cameron Coggins, "Of Californicators, Quislings and Crazies: Some Perils of Devolved Collaboration," *Across the Great Divide: Explorations of Collaborative Conservation and the American West* (2001): 163-171.
4. Karen Coulter, et al., Collective Statement on Collaborative Group Trends (undated manuscript): 5 pages.
5. Douglas S. Kenney, Arguing about Consensus: Examining the Case against Western Watershed Initiatives and Other Collaborative Groups Active in Natural Resources Management (2000): 1-7.

Indicators of Success

1. Douglas S. Kenney, Are Community-Based Watershed Groups Really Effective? Confronting the Thorny Issue of Measuring Success, *Across the Great Divide: Explorations of Collaborative Conservation and the American West* (2001): 188-193.
2. Judith E. Innes, Evaluating Consensus Building, *The Consensus Building Handbook* (2004): 647-659.

3. Chelsea P. McIver & Dennis R. Becker, An Empirical Evaluation of the Impact of Collaboration on the Pace and Scale of National Forest Management in Idaho, *Forest Science (2021): 1-11.*
4. Amy Mickel and Leah Goldberg, Generating, Scaling Up, and Sustaining Partnership Impact: One Tam's First Four Years (2018): 4-21.
5. Koontz, T. M., Jager, N. W., and Newig, J. (2020). Assessing collaborative conservation: A case survey of output, outcome, and impact measures used in the empirical literature. Society and Natural Resources, 33(4), 442–461. https://doi.org/10.1080/08941920.2019.1583397

8. ANALYZING THE CONFLICT OR SITUATION

The first step to promote meaningful citizen participation and/or to effectively resolve a multi-party dispute is to complete a situation assessment (sometimes referred to as a conflict assessment or conflict analysis). This tool allows you to (1) identify people and organizations that are potentially interested in and/or affected by a given issue or situation; (2) assess their interests and the process options they have to achieve their interests, including their "best" and "worst" alternatives to a negotiated agreement; (3) determine when and when not to engage in a collaborative process; (4) encourage stakeholders to reframe positions to interests; (5) clarify the "decision space" for some type of collaboration, including the legal, institutional, scientific, cultural, economic, and other sideboards; and (6) generate the information needed to design the right public process for any given situation.

Discussion Questions

- What is a situation (or conflict or stakeholder) assessment? Why do it? What may happen if you don't complete this type of assessment?
- What challenges or obstacles may emerge in completing a situation assessment, and what strategies can be employed to avoid and/or mitigate such problems?

Readings

1. Lawrence Susskind and Jennifer Thomas-Larmer, "Conducting a Conflict Assessment," The Consensus Building Handbook (2004): 99-136.
2. Susan Carpenter and W.J.D. Kennedy, Managing Public Disputes: A Practical Guide to Handling Conflict and Reaching Agreements (1991): 197-223.
3. Matthew McKinney, Analyzing the Conflict or Situation (2015): 28 pages.
4. Terri Nichols, Assessing Stakeholder Interests in the Former Smurfi-stone Mill Site Cleanup: A Report for the Frenchtown Smurfit-Stone Community Advisory Group (2018): 1-36.
5. MSP Guide (2019 edition), Sections 1 and 2, pages 6-24

9. DESIGNING AN EFFECTIVE COLLABORATIVE PROCESS

One of the primary values of completing a situation assessment is that it allows you to tailor the citizen participation, collaborative problem solving, or dispute resolution process to meet the needs and interests of citizens, stakeholders, and the decision-makers. Using the information gathered through the situation assessment, the participants are now ready to design an effective process that includes (1) an interest-based work plan; and (2) a set of ground rules (including the sideboards or constraints influencing the process; how to incorporate non-local interests in local decision-making processes; and so on).

This session includes a student-led seminar.

Discussion Questions

1. Use the discussion paper "What Do We Mean by Consensus?" to review the key issues in designing an effective multi-party process: (a) representation – who should be involved? (b) decision-making – how will the group make decisions? (c) ground rules – to govern the process; (d) scientific and technical information – what information is needed and how will the group gather and analyze it? (e) resource constraints -- time and money. Emphasize the need to tailor the process to meet the needs and interests of stakeholders and to do so in a way that respects legal, institutional, political, cultural, economic, and scientific constraints or sideboards.
2. Reflecting on *The Big Hole Valley* episode of *Life in the Land,* how does the Big Hole Watershed Committee function? How might we know if the collaborative process used by the Committee is effective or not?
3. Practice designing a collaborative process. Prior to class, read the General Instructions for the multi-party negotiation "Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – Part 1: Negotiating the Process." The instructor will lead you through this 90-minute role-play exercise.

Readings

1. Thomas Dietz and Paul C. Stern, eds., Public Participation in Environmental Assessment and Decision Making (2008): 111-135.
2. Susan Carpenter and W.J.D. Kennedy, Managing Public Disputes: A Practical Guide to Handling Conflict and Reaching Agreements (Jossey-Bass, 1991): 92-136.
3. MSP Guide (2019 edition), Section 3, pages 26-40
4. Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – General Instructions for Part 1: Negotiating the Process

Media

1. *Life in the Land: The Big Hole Valley.* Directed by Lara Tomov, Stories for Action, 2022.

Optional Reading/Media

- Terri Nichols, "Lessons Learned in the Superfund Process: A Guide for Community Advisory Groups" (2018).
- MSP Guide (2019 edition), Section 4 (strongly encouraged to skim this resource), pages 44-113.

10. THE ROLE OF SCIENCE, TECHNICAL INFORMATION, AND DIVERSE WAYS OF KNOWING

Many land use, natural resources, and environmental disputes revolve around disagreements over scientific and technical information and divides between ways of knowing. This session will consider different ways of knowing, present a framework for "joint fact finding" or "collaborative learning", and examine the roles of technical experts in public decision-making.

Discussion Questions

1. What is the historical role of science and technical experts in shaping natural resources and environmental policy? What are the implications of this legacy today?
2. What causes conflict over scientific, technical information, and different ways of knowing?
3. What is the purpose and goal of joint fact finding? How does it differ from the conventional approach to addressing scientific and technical issues (i.e., scientific management)? What are the key steps in joint fact finding? According to Wondolleck and Ryan, what are the various roles that scientific and technical experts play in making decisions and resolving conflict? What barriers may emerge in moving from the historical role of scientific and technical experts to the framework suggested by Wondolleck and Ryan?
4. How should Traditional Ecology Knowledge, lived experience, and practice-based knowledge be integrated into collaborative conflict resolution and collaborative governance conversations? What can we learn from the Haida Gwaii example?

Readings

1. Ronald D. Brunner and Todd A. Steelman, Beyond Scientific Management (2005): 1- 14.
2. Gail Bingham, When the Sparks Fly: Building Consensus When the Science Is Contested (2003): 20 pages.
3. Herman A. Karl, et al., A Dialogue, Not a Diatribe: Effective Integration of Science and Policy through Joint Fact Finding, *Environment* 49 (2007): 20-34.
4. Julia M. Wondolleck and Clare M. Ryan, What Hat Do I Wear Now? An Examination of Agency Roles in Collaborative Processes, Negotiation Journal (1999): selected pages.
5. Gary Burnet, Blackfoot Challenge – Community-based Approach to Collaboration, *Innovations in Public Land Management: Economics, Law, and Policy* (2016): 1-9.
6. Haida Nation, Gwaii Haanas Gina 'Waadluxan KilGuhlGa Land-Sea-People Management Plan (2018): 1-36.
7. Peter Adler, et. al., Managing Scientific and Technical Information in Environmental Cases: Principles and Practices for Mediators and Facilitators, 5-8.
8. Candice Carr Kellman et al., Five approaches to producing actionable science in conservation (2023). 1-11.

11. DELIBERATING AND DECIDING

Once the participants have negotiated an agreement on the process, it is time to negotiate over the substance of the issues. During this session, we will review the theory and method of mutual gains negotiation in a multi-party, multi-issue context. The essence of multi-party negotiation is to learn from each other about what is jointly desirable and possible. This requires collaboration to share your interests, learn about other people's interests, and create options and packages that meet as many interests as possible. It also involves some degree of competition (to advance your individual interest) and the imperative of implementation – making commitments and following-through. In the terminology of deliberative democracy, this step focuses on deliberating and decision-making.

This session includes a student-led seminar.

Discussion Questions

1. What are the key elements of mutual gains negotiation, and "why" is each one of these elements critical for success?
2. In light of these key elements and given the natural stages of group development, how would you sequence issues in a way to build trust, respect, communication, understanding, and ultimately agreement? What strategies might be effective in managing group dynamics (e.g., using caucuses away from the table to clarify interests and options; building coalitions among diverse interests to package options; etc.)?
3. How important is it to engage an impartial, nonpartisan facilitator and/or mediator to help catalyze, convene, and coordinate a multiparty negotiation or collaboration process? What value does a "process manager" add? What roles and resources can they play as a neutral process manager (see "Five Lives" essay)?
4. Practice participating in a collaborative process, either as a negotiator or a mediator. Prior to class, read the General Instructions for the multi-party negotiation "Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – Part 2: Negotiating the Issues." The instructor will lead you through this role-play exercise.

Readings

1. Lawrence Susskind, Paul Levy, and Jennifer Thomas-Larmer, The Mutual Gains Approach (1999): 1-40.
2. Susan Carpenter and W.J.D. Kennedy, Managing Public Disputes: A Practical Guide to Handling Conflict and Reaching Agreements (1991): 137-154.
3. MSP Guide (2019 edition), Section 5, pages 122-134.
4. Lawrence Susskind, et al., The Five Lives of a Neutral: The Roles and Resources of Neutrals in Multiparty Negotiation (2003): 138-142.
5. Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – General Instructions for Part 2: Negotiating the Issues.

12. IMPLEMENTING AGREEMENTS AND ADAPTIVE MANAGEMENT

While the theory of collaboration is relatively straight forward, there are a number of problems that arise in practice. During this session, we will examine problems and strategies related to implementation and adaptive management, review the role of process managers (facilitators and mediators) and collaborative leaders, consider the evidence on the relative effectiveness of collaboration, and evaluate alternative metrics to measure the performance and "success" of collaboration.

This session includes a student-led seminar.

Discussion Questions

1. What are some of the common problems related to implementing negotiated agreements? What can be done to overcome those barriers?
2. One challenge common to most, if not all, natural resources policy and conflict resolution is how to make decisions in the face of uncertainty – scientific, political, institutional, and so on. The reality is that we make decisions every day based on incomplete knowledge and information.
    a. Explain the dimensions of this problem as suggested by the readings.
    b. While the idea of adaptive management makes a lot of sense, why is it so difficult to implement in practice?
    c. What are the key ingredients to effective adaptive management in practice?

Readings

1. Lawrence S. Bacow and Michael Wheeler, Environmental Dispute Resolution (1984): 145-154.
2. William R. Potapchuck and Jarle Crocker, Implementing Consensus-Based Agreements (2004): 527-555.
3. Julia M. Wondolleck and Steven L. Yaffee, Making Collaboration Work: Lessons from Innovation in Natural Resources Management (2000): 47-68.
4. William Clark, Adaptive Management: Heal Thyself (Environment 2002): 1 page.

Media

1. Governors Grizzly Bear Advisory Council: https://fwp.mt.gov/gbac

13. TOWARD MORE EFFECTIVE OUTCOMES

While the use of collaboration is often challenging, thirty years of theory and practice suggest that it may be possible to improve governance by moving beyond the use of collaboration to address single issues on an ad hoc basis, to designing systems that can respond to the "stream of disputes" that characterize natural resources, environmental, and other public policy conflicts. This session will review progress in reforming systems of governance and explore whether collaboration represents a new form of democracy. We will also examine how the emerging ideas of collective impact and network governance may improve governance of natural resources.

Discussion Questions

1. How, if at all, can the practice of conflict resolution and collaborative problem solving be transformative?
    a. Do the theories and methods taught in this course adequately advance social and environmental justice?
2. In addition to collaboration, several other models of problem-solving, social change, and governance have emerged during the past decades that may improve the effectiveness of natural resources policy, conflict resolution, and governance.
    a. How are the theories and practices of collective impact and network governance similar to and different from collaboration?
    b. What are the implications of all these models to leadership? In other words, what type of leaders do we need to shape wise, durable solutions to natural resources problems?
3. How might the approaches explored in this course be applied in the context of mitigating and adapting to climate impacts?

Readings

1. Julia M. Wondolleck, A Crack in the Foundation? Revisiting ECR's Voluntary Tenet, Conflict Resolution Quarterly (2010): 5 selected pages.
2. Robert A. Baruch Bush and Joseph P. Folger, The Promise of Mediation: The Transformative Approach to Conflict (2004): 15-32.
3. John Kania and Mark Kramer, Collective Impact, Stanford Social Innovation Review (2011): 36-41.
4. Lee Nellis, Has 'Collaborative Conservation' Reached Its Limits?
5. IPCC, 2023: Summary for Policymakers. In: *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change.* IPCC, Geneva, Switzerland, pp. 24-34

Media

1. *Life in the Land: The Seeley-Swan Region.* Directed by Lara Tomov, Stories for Action, 2022.

14. BUILDING YOUR COLLABORATIVE PRACTICE

The evolution and application of collaborative conservation is dynamic. We'll spend this final class period reflecting on and applying key insights, trends, institutional and cultural dynamics, research needs/questions, and opportunities for the road ahead, individually and as a broader community

Discussion Questions

1. What are the insights, lessons, or take-aways for this class that most resonate with you and connect to your personal, academic, and professional goals?
2. Where do you want to continue to grow (deepen and/or broaden) your skillset and abilities in order to have the role and/or impact you're seeking?
3. How do you see yourself as part of a broader community of people interested in exploring and advancing innovative approaches to natural resources policy, planning, and management?

Readings

1. California Landscape Stewardship Jedi Roundtable, Mycelium Map: Healing Severed Connections for Justice & Equity in Landscape Stewardship (2021): 1-28.