



WESTERN COLLABORATIVE CONSERVATION NETWORK

WHITE PAPER

INSTITUTIONALIZING COLLABORATIVE PROBLEM-SOLVING AS A WAY OF DOING BUSINESS WITH FEDERAL NATURAL RESOURCE AGENCIES

By the Western Collaborative Conservation Network's Public Policy Working Group:

Jessica Western, Ph.D. Co-Chair. Big Goose Creek Resolutions LLC and Collaborative Solutions Program, Ruckelshaus Institute, University of Wyoming.

Heather Johnson, Co-Chair. Chief, Regional Partners for Fish and Wildlife Program, U.S. Fish and Wildlife Service, CO.

Bill Milton, Owner, Milton Ranch, MT.

Joy Bannon, Wyoming Wildlife Federation.

Heather Knight, Center for Collaborative Conservation, Colorado State University.

Sharon and Pat O'Toole. Owners, Ladder Ranch, WY

Gwyn McKee. Wildlife Consulting, WY

Jessica Crowder. Policy Director, Western Landowners Alliance, MT

Rox Hicks. U.S. Fish and Wildlife Service, WY

Wanda Burget. Owner, Accord Resource Solutions, WY.

Aaron Voos. Public Information Specialist, U.S. Forest Service, WY

Steve Smutko, Ph.D. Professor, Collaborative Solutions Program, Ruckelshaus Institute, University of Wyoming.

Mary Grace Bedwell, M.S. University of Wyoming.

INTRODUCTION

In 2019 we came together as a group of natural resource professionals who represent different interests to discuss collaborative problem solving in relation to Federal natural resource agencies. We identified a number of issues and in this White Paper present five categories of recommendations to Federal natural resource agencies in order to institutionalize collaborative problem solving as a way of doing business with these agencies.

The main issue for this group is the approach taken by Federal agencies in engaging with the public to manage Federal lands and natural resource issues. Around 25% of U.S. lands are managed by Federal agencies, predominantly in the western part of the country. These lands are used for diverse purposes by millions of people from the United States and around the world. Although in western U.S. the majority of residents support public land belonging to everyone in the country (e.g. see the 2016 bi-partisan study by Colorado College)¹, at local levels, especially in rural areas, there is often dissatisfaction with how these lands are managed.

Our Working Group discussed the connection between Federal land management and natural resource agencies and the depopulation of rural areas across the country and certainly western United States. Using the three states closest to this group's geography as examples, Montana had zero to negative population change in 23 counties between 2000 and 2015. Half of Wyoming's counties saw a negative population change in 2018. South Dakota saw negative population change in 27 of its 66 counties in the last 10 years. We agreed on the importance of keeping people on the land, having viable agriculture and rural communities, and the need to have collaborative working relationships with the Federal agencies with which rural communities have such close ties.

Hence, our Working Group decided on a Vision Statement: "We work with Federal partners to obtain public trust to take care of the health and integrity of the landscape and to build resilient, thriving communities". The outcomes our Working Group seeks are to:

- 🐾 maintain livelihoods,
- 🐾 support healthy communities with viable agriculture and sustainable fish and wildlife populations,
- 🐾 sustain functioning ecosystems,
- 🐾 economic viability,
- 🐾 cultivate respectful and compassionate governance,
- 🐾 and enable collaboration when situationally appropriate.

We adopted the language from the National Forest Foundation to define "collaboration": "A voluntary process through which a broad array of interests, some of which may be in conflict, enter into civil dialogue to collectively consider possible recommendations and actions that

¹2016 Survey - <http://americanpubliclands.com/public-opinion-research/>

improve the management of natural resources to benefit both the environment and surrounding communities”.

As professionals involved in natural resource policy processes, it is clear to us that there is a debate not so much about land ownership as it is about land management, and specifically, the role of the public in management decisions and decision-making processes. When unraveling complex and conflictual situations, it is important to help diverse groups of stakeholders articulate the reasons for their interests (such as “I need grazing permits on public lands to keep my ranch solvent”) rather than their positions (“Public lands in state hands!”). An interest is the reason for needing a solution in the first place, while a position often articulates an assumed solution.

The laws that determine how these lands are managed were mostly put in place by Congress in the 1960’s and 70’s. Regulations and policies that guide how those laws are implemented have been amended over time. However, we believe that deep, foundational change is necessary to allow Federal agencies and their employees to productively collaborate toward sustainable economies and healthy landscapes.

Here, we outline the process and relationship issues with which we are confronted on an almost daily basis and provide related recommendations. If implemented, we believe these methods for institutionalizing collaborative problem solving could significantly reduce local confusion and dissatisfaction with Federal land management. The issues range from planning regulations that hinder public engagement to staffing policies that erode trust—issues that can be resolved, it seems to us, without draconian changes of land ownership or Congressional actions to change laws.

NATURAL RESOURCE PROFESSIONALS’ AND LANDOWNERS’ ISSUES AND RECOMMENDATIONS

We identified five main categories of issues and recommendations for improving collaborative problem solving in relation to Federal public lands:

ISSUE 1: RELATIONSHIPS AND TRUST AT LOCAL LEVELS

Promotion from within is a key measure that ensures Federal staff move vertically up the ladder and gain experience in many locations. The resulting constant migration of Federal staff has divorced agencies from local interests, sometimes going so far that relationships and trust do not exist and cannot be built. This lack of relationships and trust hinders land, wildlife, and watershed conservation, recreational opportunities, and local economic well-being, creates inefficiencies and in extreme cases feeds into a sense of dissatisfaction that triggers arguments for e.g. Federal land devolution.

RECOMMENDATION 1: SUPPORT PROFESSIONALISM IN PLACE

Federal natural resource agencies should replace its “culture of mobility” with “professionalism in place.” Develop human-resource and management policies that allow line officers and staff to move up the organization while raising a family in one place, becoming part of the community, and having the clear regulatory tools to balance local and national interests. This will allow relationships and trust to develop within a clear imperative to manage for both national and local interests. If agencies do not allow its staff to build relationships and trust with local and national interests to find solutions for each particular place and issue, the argument for devolution may become stronger.

We urge the following to allow for productive problem solving between all stakeholders, including Federal agencies:

1. *Create succession plans to ensure that participation, encouragement and goals of collaboratives continues during leadership and staffing changes.*
2. *Mentor hiring officials to ask the right questions during the hiring process.*
3. *Require employees to live where they work so they are invested in the issues/solution.*
4. *Adopt Hiring/Performance Competencies that include and incentivize collaboration.*
5. *Require employees to live where they work so they are invested in the issues/solutions.*
6. *Develop training programs to get new personnel up to speed on relevant management decisions and collaborative processes.*
7. *Support promotions in place.*
8. *Incentivize and recognize those who stay in the same positions and are working well with the community.*
9. *Provide clear regulatory tools to balance local and national interests.*

ISSUE 2: COLLABORATIVE CAPACITY WITHIN AGENCIES

Most of the authors of this paper have all been involved in successful collaboration around the West for decades. However, we still consistently encounter Federal agency leadership and staff who are resistant to collaborative problem solving for fear of losing decision making power, and/or do not know what collaborative problem solving is, how it works and what the role of Federal agencies is and is not. We acknowledge that steps are being taken by some agencies to correct this, however it is not consistent across all Federal agencies. Also, there is a more deep-seated cultural component that needs to be tackled throughout agencies. Each agency has its creation story and we believe there need to be agency-wide discourses regarding what aspects of those narratives no longer serve the agency today and need to be replaced to allow agencies to productively problem solve at local levels based on transparency, science and inclusion.

For example, stemming from Gifford Pinchot in 1905, the USFS started with a culture as the best and only provider of forest knowledge. In today's world, that idea is incompatible with reality. Knowledge is no longer housed only in our nation's forest management agency. University and consulting researchers, non-governmental organizations, tribes and extension services also hire scientists and generate new understanding of forest systems based on rigorous scientific research. Inclusion and transparency coupled with science and indigenous knowledge are what is now needed.

RECOMMENDATION 2: INSTITUTIONALIZE COLLABORATION AS A WAY OF DOING BUSINESS

Collaboration and collaborative learning are tools that lend themselves well to multiple party consensus building and information sharing for complex issues. It is not a tool that needs to be used for every issue and every place. Agency leadership and staff need to know when to use these tools and how to use them, including within the restrictions of FACA (more on that below). Currently the public too often is confronted with a wall of agency ignorance and fear when the desire to explore a complex issue collaboratively is raised. As we write this paper, one of us has to explain to an agency unit's leadership why tackling a complex wildlife-recreation issue collaboratively will not impede on their decision-making mandate, nor conflict with FACA. To enable Federal resource agency cultures toward collaborative problem solving we believe the following is necessary:

1. *Reframe agency culture to one of collaboration and community built on respect for different values and different sets of knowledge.*
2. *Make collaboration training mandatory, including collaboration within legal decision-making space, convening, participative and facilitative leadership skills and when to use collaboration.*
3. *Endorse collaboration as a means to enhance resilience for next generations and next issues.*
4. *Embrace collaboration as a living and ongoing process.*
5. *Include a mutual understanding and a shared language.*
6. *Let local community needs drive collaborative processes, including national interests.*

are managed. These interests are broad in their variety and deep in their intensity. Some are easier to understand for constituents such as economic, recreation and conservation interests. Some receive insufficient comprehension and/or acknowledgement e.g. American Indian and other indigenous people in North America, and the interests of future generations.

ISSUE 3: SOCIAL CAPACITY.

We often hear concerns from Federal colleagues and partners regarding the lack of human-dimension capacity within their agency (i.e. social sciences, communication, and collaborative expertise). A related concern we have often heard and experienced is the lack of leadership support for employees' collaborative work and for collaborative outcomes. Another common concern is the worry about public engagement without sufficient emotional intelligence (the capacity to be aware of, control, and express one's emotions and to handle interpersonal relationships judiciously and empathetically). Yet so much of what the agency does involves interaction with humans, including the many emotions and interests tied to how these lands

RECOMMENDATION 3: BUILD SOCIAL CAPACITY WITHIN AGENCIES

We recommend an agency approach to public engagement to include emotional intelligence. This will require the hiring of more human dimension expertise, and clearly direct planning and management activities to include this expertise in its decision-making. In the 1990's and 2000's agencies had more of this expertise within their ranks. This decreased during the Great Recession. If Federal natural resource and land agencies want to serve the American public appropriately today, agencies need to be able to better interact and problem solve with their constituents. This entails a fundamental cultural and operational change to create a new lens through which all agency staff look at what landscapes and people need to thrive. In order to improve relationships and trust, and to operationalize culture change within agencies, we believe the following steps will enable agencies in general and staff in particular:

- 1. Hire people for collaborative roles with collaboration competencies and give them the tools they need.*
- 2. Hire social scientists and communication experts to expand tools for consensus building and collaborative learning.*
- 3. Evaluate and reward employees engaged in collaborative processes based on those competencies.*
- 4. Leadership at all levels must be familiar with collaboration so mid-level management will not be hindered in ongoing collaborative efforts due to lack of understanding/ perceived validity.*

ISSUE 4: INCONSISTENT PUBLIC ENGAGEMENT APPROACHES

Social psychological research shows that Federal staff values regarding decision making split into two main types². One study found in one agency that one group is more traditional, holding on to older methods and philosophies. The other group is interested in new ideas and more inclusive approaches. The first group is more inclined to hierarchical-power leadership approaches. Their decision-making style is more “rational,” that is, based on the belief that the technical and scientific expertise of the Federal qualifies the agency to make decisions for the public. They see public involvement as a way to provide some information at best, a procedural must-do at worst. They tend to avoid public participation as much as possible, containing it to the minimum required by NEPA.

The second group consists of agency leaders and staff who subscribe to mentoring, modeling, and team-building. These “post-rational” decision-makers believe the public has access to high-quality, relevant information and is willing to negotiate in good faith with agencies to develop projects. They are more likely to use collaborative public involvement approaches and will include the public’s values as well as scientific knowledge in ongoing citizen-government partnerships.

These distinct approaches to public involvement mean that a person in a leadership role who cycles into a process due to constant staff transfers may bring a different value orientation about public engagement—either “rational” or “post-rational.” The switch can instantly upend a public process, severely disrupting the work of a collaborative group.

RECOMMENDATION 4: CREATE CONSISTENT COLLABORATIVE CAPACITY ACROSS ALL FEDERAL NATURAL RESOURCE AGENCIES

Make true collaboration the standard approach of agencies. Define it, fund it, and train people. The Council of Environmental Quality, the National Forest Foundation, the US Institute for Environmental Conflict Resolution, Universities and others have worked to support and enhance collaborative problem solving with and within Federal natural resource agencies. Some agencies are in the process of hiring collaboration specialists, providing training and increasing collaborative capacity, which we applaud. However, this needs to happen across all agencies by training anyone who engages with the public in communication skills, psychology, indigenous cultural awareness, collaborative problem solving and collaborative leadership. Substantial Federal funds are needed for this to succeed.

Rather than expecting agency constituents to be content with constantly changing leadership and associated changing values regarding management and public engagement, agencies

² For example, see Predmore, S.A., M.J. Stern, M.J. Mortimer and D.N. Seesholtz (2011) Perceptions of Legally Mandated Public Involvement Processes in the U.S. Federal. *Society and Natural Resources*, 24:1286–1303 or Trusty, T. and L. Cerverny (2012) The role of discretion in recreation decision-making by resource professionals in the USDA Federal *Journal of Environmental Management* 107 (2012) 114e123

should clearly articulate its values based on post-rationalism—that is, a way of doing business that meaningfully engages the public in deliberative processes that enhances learning, transparency, and agency accountability to its publics.

Therefore, in order for agencies to embrace the above recommendations and operationalize collaborative problem solving, we recommend the following tools:

IMPLEMENT TRAINING AND MENTORING PROGRAMS TO BUILD A COMPETENCY IN COLLABORATIVE PRACTICE AND RELEVANT MANAGEMENT DECISION MAKING.

1. *Provide standardized collaborative on-the job training and mentoring.*
2. *Utilize existing partners and resources to assist in collaborative training.*
3. *Target this training to people best suited to collaborative problem-solving. Not everyone should be in collaborative positions, and not every position should be required/expected to collaborate.*
4. *Provide moderator training.*

STANDARDS AND GUIDELINES

1. *Federal employees represent the national interest and act as a resource, stakeholder, and/or convener in collaboratives.*
2. *Articulate values of working lands and economic motivations.*
3. *Decision makers must be flexible and open to utilizing collaborative input.*
4. *Agencies should take the lead when they have programs and funding to address an issue, and engage appropriately in collaborative community-based processes.*

LEADERSHIP TOOLS

1. *Leadership at all levels of agencies should encourage collaborative leadership by example.*
2. *Encourage authentic leadership – 100% who you are, all the time*
3. *Start with good policy, then allow local collaborative efforts to lead/make decisions*

PROCESS/TOOLS FOR SUCCESS

1. *Provide legal examples of cases where judges confirm the validity of collaborative problem solving.*
2. *Provide a pool of conveners, practitioners and bridge organizations – a living list, made public.*
3. *Consistent collaborative processes and procedures throughout Federal government.*

4. *Educate communities by developing standardized metric for “measuring” benefits of collaboration to help people recognize and accept/understand value to collective goals of working lands, Federal agencies, conservation, industry, and community.*
5. *Facilitate flexible endpoints to meet program requirements.*
6. *Remove regulatory/public policy roadblocks to collaborative community-based problem-solving efforts. (See Issue 5)*
7. *Look across all Federal processes and document those that work, and then use them to improve existing ones, or create new processes and policies that support collaborative problem solving. Make successful models transferable and adaptable to other Federal agencies.*
8. *Build, fund, support, and participate in large-landscape collaborative approaches; collaboratively problem solve cross-boundary projects that improve the land and the livelihoods of those who live and work there.*

A Few Laws Affecting Collaboration with Federal Agencies

The Federal, within the Department of Agriculture, carries out a number of laws in management of 154 national forests and 20 national grasslands totaling about 193 million acres.

National Environmental Policy Act (NEPA)

NEPA’s purpose is to ensure public engagement and an analysis of the impacts of a proposed action and a range of alternatives in Federal agency decision-making processes. The act also empowers the CEQ to advise the President on environmental policy and the state of the environment. NEPA requires Federal agencies to prepare an environmental impact statement (EIS), an environmental assessment (EA), or a categorical exclusion (CATEX) to accompany reports and recommendations for Federal projects. A project is required to meet NEPA guidelines when a Federal agency provides any portion of financing for the project. An EIS is applicable to “major Federal actions significantly affecting the quality of the human environment.”

National Forest Management Act

NFMA is the primary statute governing the administration of national forests. It requires the US Forest Service to develop plans for national forests; set standards for timber sales; develop a management program based on multiple-use, sustained-yield principles; and implement a resource management plan for each unit of the National Forest System. NFMA requires public engagement. Other agencies have similar legislation authorizing planning and public engagement e.g. the Federal Land Policy and Management Act for the Bureau of Land Management.

Federal Advisory Committee Act

FACA is the result of concerns in the 1960s that Federal-agency staff were being co-opted by local interests, when Federal lands are statutorily required to be governed for all people. The law stipulates how a Federal agency can create a working group representing different interests to address a management or policy question. Under FACA, a Federal agency must have a working group approved by

ISSUE 5: POLICIES AND AGENCY FUNDING

A major barrier to collaboration is the perception that the Federal Advisory Committee Act of 1972 (FACA) (see Laws box) creates a barrier to collaboration and therefore to local input on Federal lands management.

While FACA was designed to ensure diverse perspectives would advise an agency, it actually now dampens public engagement. Federal Advisory Committees are limited to two years and can be good tools for issue-based collaboration, but they do not lend themselves easily to place-based, long-term collaborative efforts. Additionally, there is limited capacity in Washington D.C. to facilitate the smooth, timely, and appropriate use of the Advisory Committees permitted under this law. As a result, the number of Federal Advisory Committees has been severely limited.

FACA creates a barrier to collaboration in that its interpretation, and possibly its very existence, makes it very difficult for staff to know when FACA applies and when it doesn't. "FACA-phobia" results in the knee-jerk desire to be on the safe side of the law (especially the more "rational" decision-makers), and therefore the avoidance of collaborative engagement altogether.

The USFS and the Department of Interior have created regulatory tools 36 CFR 220; 43 CFR 46 to permit a more open, transparent and collaborative approach to carrying out the National Environmental Policy Act (NEPA) mandate. Dubbed "iterative NEPA," or iNEPA by e.g. Forest Service practitioners, this approach reflects the incremental stages in which proposed actions and alternatives are improved throughout the NEPA process with stakeholders in order to meet diverse interests. This means a group of external and agency stakeholders can maximize their time and efforts and reduce the chance of developing alternatives that are ultimately not used because they meet only one particular stakeholder group's viewpoint. iNEPA can therefore provide for a more effective and meaningful decision-making process. Despite the potential benefits of utilizing the iNEPA approach, on-the-ground applications have been slow to come³.

Our experiences with our colleagues and partners in Federal natural resource agencies is that there is an overwhelming amount of talent and energy but without the tools and funding to adequately meet today's increasing demands of public lands and natural resources. This affects the viability of especially rural communities and economies who are finding ways of increasing their resilience through diversification. This effort is completely tied to thriving working landscapes, much of which is in public hands in the West.

³ Clement (Western), J., D. Loomis, M. Straube, S. Daniels, J. Schaefer, M. Healy, J. Carbone and K. Freedman (2014). Iterative NEPA and Collaboration http://www.uwyo.edu/haub/ruckelshausinstitute/files/docs/publications/inepa_report_lowres.pdf

RECOMMENDATION 5: UPDATE POLICIES AND FUND AGENCIES ADEQUATELY

Federal agencies need to tackle the legal mine field that the 1972 Federal Advisory Committee Act creates for the agency to engage in collaboration. Scholars and legal experts have generated suggestions to reduce FACA barriers to collaboration⁴. Some have suggested removing the limit to the number of advisory committees, thereby enabling more bounded multiple-stakeholder collaboration such as working groups. We recommend that ideally regulations and language in the Act itself be clarified to achieve its ultimate goal, which is to reduce undue influence of a limited set of interests at the expense of others, while allowing fair and open processes. Any and all barriers to collaborative problem solving that the agency faces need to be tackled. This includes enabling methods such as iNEPA to combine NEPA processes with collaborative learning public engagement approaches. If agency leadership use open and fair collaborative processes to find solutions or alternatives, with the clear stipulation that they *are* the decision-makers, stakeholders are less likely to go to court.

We also strongly recommend enabling agencies and their staff to do what is required to meet today's needs, which are critical to thriving rural communities.

REVISE POLICIES TO ENABLE COMMUNITY-BASED COLLABORATIVE PROBLEM SOLVING.

1. *Streamline Federal Advisory Committee Act to efficiently and effectively facilitate collaborative problem-solving. Enable Federal agencies to convene bounded processes that include all stakeholder types and learn collaboratively.*
2. *Encourage community based collaborative problem solving convened by non-Federal entities so Federal agencies can act as full partners.*
3. *Enable community-based collaborative problem solving to get to and implement a NEPA decision (e.g. using iNEPA, Shared Vision Planning, and/or Adaptive management).*
4. *Revise the Equal Access to Justice Act to be more equitable.*

⁴ For more, see for example "The Federal Advisory Committee Act and Public Participation in Environmental Policy" paper by Rebecca Long and Thomas Beierle (Resources For the Future discussion paper 99-17).

PROVIDE SUSTAINED FUNDING.

1. *Provide Federal and non-Federal funding capacity to enable community-based collaborations to implement action on the ground.*
2. *Adequately fund all base agency programs.*
3. *Leverage and coordinate opportunities for non-agency funding to support collaborative problem-solving without perceived conflicts of interest.*
4. *Educate funding appropriators on the value of collaborative problem solving.*

CONCLUSION

In 2015 Wyoming's then-Governor Mead charged a collaborative Task Force to explore what was needed to ensure healthy forests in the future in that state. Twelve main recommendations came out of that effort, which might be summarized into two big pleas: One, provide funding so the agency can serve the people as it should. Two, "work *with* us". In Wyoming, as in any other state, residents and visitors are dependent on public lands and resources for livelihoods, quality of life, and even spiritual fulfillment. It is therefore no wonder that people want to work with agencies that are charged with the conservation and management of these resources. By "work" the Task Force meant they wanted to be able to get their hands dirty building or restoring trails, fighting cheat grass, spending hours in meetings going through complex information, and figuring out solutions that meet as many interests as possible, even if it was on their own dime.

This White Paper comes down to this: For Federal agencies and our public landscapes, watersheds, wildlife our communities and economies to thrive, Federal natural resource agencies must build trust in management by engaging consistently with their publics, using emotional intelligence and collaborative leadership skills as well as science and laws. Where complex issues are concerned that involve many interests, collaboration has to be the way of doing business. And the only way to balance national laws and values with local interests in a way that is fair, comprehensive, and scientifically grounded, is through collaboration.