

## Collaboration and the Ecology of Democracy

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# COLLABORATION AND THE ECOLOGY OF DEMOCRACY\*

by Daniel Kemmis and Matthew McKinney\*\*

## INTRODUCTION

This article explores various citizen-driven, multiparty natural resource and public land management collaborations, viewed as one emerging species within the “ecology” of democracy. Examples from the Quincy Library Group Partnership, Beaverhead–Deerlodge National Forest, Blackfoot Valley, and Valles Caldera Trust will trace the trajectory of collaborative democracy from its organic inception to its present form. To anticipate the core of the argument: we believe that the kind of problemsolving collaboration we will be examining is democratic in the most fundamental sense of that word because it is nothing more nor less than the effort of people to shape the conditions under which they live, rather than leaving that shaping to someone else.

We begin by explaining what we mean by an “emergent form of democracy.” This concept of emergence derives primarily from complexity theory. Complexity theorists stress that it is inherently impossible to provide in advance a rule or algorithm that will produce the structure or pattern that in fact emerges.<sup>1</sup> This phenomenon is illustrated both in the social and physical realm: similar to emerging markets and cities, politics seem to merge naturally out of the human condition. As the bureaucratic state matured throughout the 20th century, it produced its own characteristic set of mechanisms for “participatory democracy,” including public notice and hearings, comment periods, and administrative appeals.

In terms of the evolving ecology of democracy, a new democratic life form is emerging in the open spaces left by the older, established democratic forms of representative, procedural, and direct democracy.<sup>2</sup> This movement toward a collaborative democracy is a direct response to some of the shortcomings of the late 20th-century framework of procedural democracy.<sup>3</sup> Whatever else public hearings might accomplish, they rarely result in democratic solutions.<sup>4</sup> Surprisingly, it is the stakeholders, who have battled each other in public hearings for decades, who are beginning to engage in serious, face-to-face problem solving.<sup>5</sup> Therefore a desire for authentically-engaged and constructive citizen involvement arose, producing new, less structured forms of deliberative and collaborative democracy. Multiparty collaborative natural resource and land management includes elements of alternative dispute resolution and deliberation, but also exhibits unique features that justify its treatment as a separate species of democracy. Specifically, the emergence of collaboration is also a reaction to the previously neglected importance of “place” when governing public lands. Because so much of the collaborative experience to this point is

place-driven, it seems worthwhile to explore what there is about place-focused problems in land management that has produced so much of this emergent democratic form.

## THE EMERGENCE OF COLLABORATIVE LAND AND NATURAL RESOURCES MANAGEMENT IN THE AMERICAN WEST

To that end, we turn our attention to the remarkable spread of collaborative practices in our own place—the American West—and to a range of collaborative activities arising within this familiar setting. The West is characterized by contentious, fairly localized natural resource issues on or near public lands in the western states.<sup>6</sup> Our hope is that, by examining how collaboration has emerged and matured in this rather narrow niche of public land management, we can develop useful methodologies for studying what catalyzes, constrains, and sustains its existence (or for studying what might cause its failure to thrive) in other settings.

There are two especially salient components of this land management niche. One is literally ecological: these collaborations, without exception, revolve around the uses to be made of very specific landscapes, as well as the soil, water, flora, and fauna of those landscapes.<sup>7</sup> Part or all of each of these landscapes consist of public land, usually administered either by the U.S. Forest Service or the Bureau of Land Management.<sup>8</sup> In most cases, the parties to the collaboration include natural resource extractors and users of the public land in question on the one hand (timber or grazing interests, for example) and conservationists seeking to protect the land or the species inhabiting it on the other.<sup>9</sup> A fundamental feature of the dynamics behind collaboration in these cases is the simple fact that different people or interests have conflicting objectives for what should happen to one particular piece of land and its natural resources.

The second key component of this setting is the existing decision-making system that constitutes the governing framework for the public lands. This decision structure is remarkably complex, comprising a broad range of statutes such as the National Environmental Policy Act of 1969 (“NEPA”),<sup>10</sup> the

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Endangered Species Act of 1973 (“ESA”),<sup>11</sup> the National Forest Management Act of 1976 (“NFMA”),<sup>12</sup> the Federal Land Policy and Management Act of 1976 (“FLPMA”),<sup>13</sup> and the Federal Advisory Committee Act of 1972 (“FACA”).<sup>14</sup> These statutes are further fleshed out by a corresponding and even more voluminous set of agency regulations, multiple layers of appeals (including frequent recourse to federal courts), and the case law emerging from that litigation.<sup>15</sup> This is the “procedural republic” in all its glory.<sup>16</sup>

The increasing problems with this governing framework have been extensively noted and analyzed. For example, former Secretary of the Interior Cecil Andrus describes the public land and natural resources governance system as “the tangled web of overlapping and often contradictory laws and regulations under which our federal public lands are managed.”<sup>17</sup> Congressman Scott McInnis, former Chair of the Subcommittee on Forests and Forest Health, defines the system as “a decision-making apparatus that is on the verge of collapsing under its own weight.”<sup>18</sup> Similarly, former Forest Service Chief Jack Ward Thomas calls this governing framework “a sort of blob,”<sup>19</sup> and in June 2002, Forest Service Chief Dale Bosworth presented to Congress a report entitled, “The Process Predicament,” which describes the effects of regulatory and administrative gridlock on national forest management.<sup>20</sup> The report focused heavily on the Agency’s increasing inability to fulfill its primary duties.<sup>21</sup> The undeniable fact remains that the current resolution processes for addressing natural resource conflicts on public lands simply do not work.

Collaborative democracy is emerging so profusely in this setting because many of the people with the greatest stakes in the landscapes in question find that the existing decision system cannot reconcile competing stakes in these resources as effectively as can the stakeholders themselves acting on their own initiative.<sup>22</sup> This response is especially rife in the vast reaches of the West where public lands and natural resources are so prevalent.<sup>23</sup> Here, in what is often referred to as the “public lands West,” we have seen a steadily growing number of local agreements among environmentalists, ranchers, loggers, miners, and recreationists about how the public land and natural resources should be managed in their particular river drainage area or ecosystem.<sup>24</sup> More and more Westerners have come to realize that they can do better by their communities, economies, and ecosystems by working together outside of the established, centralized governing framework.<sup>25</sup> Accordingly, they have largely abandoned the cumbersome, uncertain, underfunded, and increasingly irrelevant mechanisms of that older structure.<sup>26</sup>

The collaboration movement is a pragmatic response to the slowly accumulating evidence that our historical experiment with proceduralism produces mixed results at best. The more statutory and regulatory layers added to any particular issue, the denser the maze and the higher the likelihood that the system will malfunction. Then, it is not surprising that the “public lands West,” where more layers exist than anywhere else, is the place where the search for an alternative decision making structure is most active.<sup>27</sup> It is because the existing system is so pervasively and palpably unworkable out West that people are willing to

put so much work into fashioning an alternative. It is this set of circumstances, above all, that is propelling the collaborative movement in the West.

There is simply too much at stake to let the prevailing system continue—and inevitably fail. As such, the collaborative method of resolving public land and natural resource issues has spread across the region evolving from a purely organic creation into its now-institutionalized state.<sup>28</sup> And although some agencies now promote collaboration in a variety of ways,<sup>29</sup> this has not established the method’s foothold on the landscape at anyone’s direction or by anyone’s design; collaborative democracy remains almost entirely undirected and most often occurs without any official sanction or any clear way of connecting it to the existing decision structure.<sup>30</sup> Thus, we will begin our tour of this democratic evolution with the most feral examples of collaboration, and then move on to more domesticated instances.

### THE QUINCY LIBRARY GROUP

The Quincy Library Group is a typical example of a collaborative effort that arose organically and originated outside the established governing structure. In Quincy, California, mutually dissatisfied with a management plan proposed by the Forest Service, a group of loggers, environmentalists, citizens, and local government officials from the area came up with an alternative five-year management plan to preserve old growth, endangered species habitats, and roadless areas for 2.5 million acres of forest surrounding Quincy, and also to keep the town’s local sawmills in business.<sup>31</sup> Unable to persuade the Forest Service to adopt the plan through the traditional methods, the group enlisted the support of their congressional delegation and eventually got their bill through Congress in 1996.<sup>32</sup> Ultimately, the locally initiated collaboration created a congressionally binding resolution to the region’s valuable timber resources.<sup>33</sup>

### THE BEAVERHEAD–DEERLODGE PARTNERSHIP

The Beaverhead–Deerlodge Partnership is another example of the organic development of collaborative democracies. This Partnership emerged in response to the Forest Service’s forest plan review, which the Forest Service is obligated to conduct at least every fifteen years.<sup>34</sup> In keeping with that requirement, the Forest Service published a new draft forest plan for the Beaverhead–Deerlodge National Forest of southwestern Montana in 2006.<sup>35</sup> But reactions to the draft plan were mixed.<sup>36</sup> Conservationists and timber interests had a shared history of deep antagonism, in which they had typically taken diametrically opposed positions at public hearings on anything proposed by the Forest Service.<sup>37</sup> Thus, the owners of the locally owned lumber mills still operating in the area, already hard-pressed by global competition, were concerned that the proposed plan would drive them out of business because it would not allow them to harvest enough timber from the national forest to keep their mills running.<sup>38</sup> Conservationists, on the other hand, were convinced that the proposed plan was short on wilderness designation and that the proposed fish and wildlife programs were not protective enough of threatened species.<sup>39</sup>

One local sawmill owner, Sherman Anderson, observed that environmental activism and Forest Service policy had reduced the amount of public timber coming into his sawmill from ninety percent of his feedstock to five percent.<sup>40</sup> Those supply problems, coupled with fierce competition from Canadian mills, had driven a steady stream of small sawmills out of business over the last few years.<sup>41</sup> Anderson, operating at a loss even before the bottom dropped out of the housing market in the recession of 2008, feared that he would be next.<sup>42</sup>

After years of conventional management tactics that resulted in this situation, representatives from five Montana lumber mills instead began meeting independently with local representatives from the National Wildlife Federation, the Montana Wilderness Association, and the Montana Trout Unlimited to explore whether they might collectively find more beneficial outcomes for forest management than those proposed by the Forest Service.<sup>43</sup> This collaborative effort became known as the Beaverhead–Deerlodge Partnership.<sup>44</sup> The partners found common ground after some of the conservationists acknowledged that logging itself was not necessarily bad for wildlife and water quality if it was conducted in the right way and at the right scale.<sup>45</sup> The timber interests, meanwhile, acknowledged the conservationists' view that substantial portions of the forest should not be logged, but would be better protected as wilderness.<sup>46</sup> The two sides hammered out ways to fit fish and wildlife restoration into a sustainable timber-harvesting program.<sup>47</sup> The Partnership's laborious efforts were eventually incorporated into legislation introduced by Senator Jon Tester, which is currently pending in Congress.<sup>48</sup>

### THE BLACKFOOT CHALLENGE

As this kind of citizen-initiated collaboration has gained momentum in the public land and resources arena, government agencies have sometimes been invited to become collaborating partners. Consider, for example, the Blackfoot Challenge. This collaborative group that includes private landowners, federal and state land managers, local government officials, and corporate landowners now coordinates much of the management of the Blackfoot River, its tributaries, and adjacent public and private lands—approximately 2,400 square miles in western Montana.<sup>49</sup> Working together, the mission of the Blackfoot Challenge is “to coordinate efforts that conserve and enhance the natural resources and rural way of life throughout the watershed.”<sup>50</sup> The Blackfoot Challenge is now known nationally as a collaborative model for preserving the wild beauty, ecological health, and natural resources of the watershed.<sup>51</sup>

When the Obama administration launched its America's Great Outdoors initiative in 2010, it staged its first public event on the ranch owned by Jim Stone, the chair of the Blackfoot Challenge board, as a way of underscoring how important the collaborative efforts of groups like this have become in the recent history of American conservation.<sup>52</sup> In a recent interview, Denny Iverson, the Challenge Board's Treasurer, explained that he moved with his parents from Minnesota to a Blackfoot Valley ranch in 1975.<sup>53</sup> He was in high school at the time, and

he tells how his father, whose dream had long been to own a ranch in Montana, initially struggled to make this dream ranch profitable.<sup>54</sup> Many ranchers were already employing creative ways to preserve their properties. For example, like many of their neighbors, one way the Iverson's had kept their ranch in the black was by leasing some of the surrounding public land for their cattle to graze on.<sup>55</sup> As with hundreds of other ranchers across the West, the profitability of their ranch depended on the grazing resources of those leases.<sup>56</sup> But once public land grazing had become a target of several national environmental groups, these groups threatened the ranchers that their leases would not be renewed unless grazing could be done in an environmentally benign way.<sup>57</sup>

Another way the Iversons kept their ranch solvent was by spending a fair amount of time in the local woods, supplying timber to local sawmills.<sup>58</sup> Some of that timber came from private land, like their ranch, but some also came from Forest Service land.<sup>59</sup> As with public land grazing, some national environmental groups sought to end all commercial harvesting of timber from public land.<sup>60</sup> If successful, those efforts would have reduced the thin margin that supported the Iverson ranch and family. Ultimately, the family survived by collaborating with neighbors and local interests in the Blackfoot Challenge. Whether it was grazing or logging, the Iversons and their neighbors (including the neighboring sawmills) learned that they had to become conservationists to preserve their way of life. It is primarily the Blackfoot Challenge that enabled them to do that. Above all, it has given them a new way of working with conservation organizations like the Nature Conservancy or Trout Unlimited, and with government agencies like the Forest Service.

Both federal and state land management agencies are seated on the Board of Blackfoot Challenge, and Iverson spends a lot of time working with them.<sup>61</sup> When asked whether his involvement with this collaborative group has changed his view of government, Iverson responded, “It's changed it in a big way. Before, I was just trying to scratch a living out of the ground. I was a pretty right-wing conservative, with very little use for government, especially the federal government.”<sup>62</sup> Although he has not changed his core principles, he now recognizes that both he and the government agencies have changed since their initial consultations; Iverson considers himself to be more moderate than before,<sup>63</sup> and says that the agencies are “more efficient [and] more responsive.”<sup>64</sup> Iverson attributes his involvement with the Blackfoot Challenge with enabling him to see the agency personnel as people who share similar community values.<sup>65</sup> According to Iverson, “When the meeting's over, we'll buy them a beer. In fact, we'd never have gotten to know each other so well if we hadn't started going to Trixie's Antler Saloon together.”<sup>66</sup> Iverson and the Blackfoot Challenge have shown “how government works—or maybe more important, how it can work.”<sup>67</sup>

Here again, as with the Beaverhead–Deerlodge Partnership, a diverse group of citizens has taken the initiative to conserve a place that is near and dear to their hearts. As a result, the Blackfoot Challenge's mission statement, “to coordinate efforts that

conserve and enhance the natural resources and rural way of life throughout the watershed,” has finally become a reality.<sup>68</sup>

### THE VALLES CALDERA TRUST

At present, one of the strongest tributes to the effectiveness of collaboration in the public land and resource arena is the fact that the practice itself has become more often blessed, if not mandated, by both statutes and agency rules and procedures.<sup>69</sup> One good statutory example is the Valles Caldera Trust.<sup>70</sup> In 2000, Congress acquired the privately-owned Baca Ranch in northern New Mexico.<sup>71</sup> Instead of giving one of the existing land management agencies responsibility for this newly acquired public land, Congress mandated that “an experimental management regime should be provided by the establishment of a trust capable of using new methods of public land management that may prove cost-effective and environmentally sensitive.”<sup>72</sup> Specifically, Congress established a diverse, multiparty governing board for the land and its natural resources and, in effect, mandated that it be managed collaboratively.<sup>73</sup> Given the initial success of the Valles Caldera Trust, Congress again called collaboration into play three years later in the Healthy Forests Restoration Act of 2003.<sup>74</sup> This shows that Congress has confidence in the various stakeholders’ ability to “reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects.”<sup>75</sup>

### MOVING TOWARDS GOVERNMENT-INITIATED COLLABORATIVE LAND AND NATURAL RESOURCE MANAGEMENT

Following this trend toward governmental involvement, public land management agencies themselves now routinely invite or encourage collaboration among various stakeholders. To illustrate this type of collaboration, consider the ongoing process to develop a new planning rule for the Forest Service. The National Forest Management Act (“NFMA”), which governs land and resource management in the national forests, requires the Agency to develop plans for all national forests and grasslands.<sup>76</sup> The Forest Service adopted the first set of rules to guide the development of these plans in 1979.<sup>77</sup> Although the planning rules were revised in 1982, all four subsequent attempts to revise the rules have each failed.<sup>78</sup>

In 2009, at the direction of the Obama administration, the Forest Service launched yet another effort to revise and update the planning rules.<sup>79</sup> Collaboration has emerged as a hallmark of this new process. According to the official Forest Service website, the agency “is committed to developing a new planning rule that endures over time. We believe a transparent and participatory method is the best way to accomplish this. We’ll be working hard to gather input collaboratively throughout the development of a new planning rule.”<sup>80</sup>

This rulemaking approach is an example of how government agencies now frequently use collaboration. In this case, it is being used to develop administrative rules, but agencies also increasingly use collaboration to develop policy proposals,

management plans, and site-specific work plans.<sup>81</sup> The government’s use of collaboration is not limited to natural resources and environmental policy, and is increasingly invoked at every level—local, state, and federal—to formulate (via the legislative branch) and implement (via the executive branch) public policy.<sup>82</sup>

However, the transition of place-specific collaborative results into legislation remains problematic. One observer has noted, for example, “if replicated more broadly, the place-based approach to forest management could further disaggregate the National Forest system.”<sup>83</sup> This concern was also echoed by Undersecretary of Agriculture Harris Sherman when he testified on Senator Tester’s pending bill, noting that place-specific collaboration “establishes a potentially harmful precedent because it may lead to multiple site-specific legislative efforts transferring much needed resources from other units of the National Forest System where priority work must also be accomplished.”<sup>84</sup> Here again, the difficulty may be viewed as a manifestation of the old problem of the few and the many. The perspective of a more broadly representative, but genuinely deliberative, public could be brought to bear on some of these conflicts, which could expand the range of public involvement without necessarily losing the problem solving impetus that has led to the collaborative solution in the first place. Integration of the enactment into legislation of place-based collaborative management into legislation, then, is both promising and problematic.

The one thing that contributes most significantly to the steady expansion of collaborative problem solving is the fact that, in so many circumstances, it works. And in fact, it works better than other available democratic mechanisms.<sup>85</sup> In evolutionary terms, this is a straightforward example of natural selection: what works well survives and thrives.<sup>86</sup> Collaboration has gained a foothold in certain niches of our political ecology because it brings a kind of selective advantage to those settings.

### CONCLUSION

Although these government-sponsored efforts are a welcome addition to the ecology of democracy, they represent a qualitatively different kind of collaboration than the type of citizeninitiated collaboration illustrated by the Beaverhead–Deerlodge Partnership or the Blackfoot Challenge. Our experience has convinced us that, at least in the public lands arena, collaboration would never have been widely employed by agencies, let alone mandated by legislative bodies, had it not initially emerged in a completely organic, indirect way, and if it had not proven its viability on the challenging political landscape that produced it. It is this organic, citizen-initiated form of collaboration that we mean when we speak of “collaborative democracy.”

Encouraging as the government adoption of collaborative methods may be, it also raises questions about how readily collaboration can be transposed into settings that vary substantially from those in which it emerged. To extend the ecological metaphor a step further, creating collaborative approaches to public land and resource issues by the use of legislation or administrative practice can be viewed as the equivalent of domesticating

animals or plants that originally emerged and evolved in the wild. Useful and often lovable as these domesticated species may be, it nevertheless remains true that a dog is not a wolf, nor is a cat a tiger. Thus, while we promote and encourage collaboration in a number of constrained institutional settings, the need to preserve space and if possible, native habitat, means that collaborative democracy must continue to flourish and evolve in its own organic, undirected way.<sup>87</sup>

Recall, for example, the Blackfoot Challenge, the land-owner-based group in Montana that helps to coordinate the management of the Blackfoot River, its tributaries, and adjacent public and private lands.<sup>88</sup> The Challenge was organized locally, but known nationally as a model for preserving the rural character, ecological health, and natural beauty of its watershed.<sup>89</sup> It supports environmentally responsible resource stewardship through cooperation of private and public interests.<sup>90</sup> These interested parties all share a common vision of how the Challenge operates in the Blackfoot watershed, and all believe that success is most likely to result from building trust by working together.

The Blackfoot Challenge, however, is merely part of a grander scheme. It is a good example of how place-based collaborative efforts often “nest” within one another as the watershed lies within the much larger Crown of the Continent.<sup>91</sup> During the past eight years, a number of independent and complementary initiatives (including the Blackfoot Challenge) have emerged to promote conservation and community stewardship in this remarkable landscape.<sup>92</sup> These initiatives present the prospect of grander collaboration between individual collaborative coalitions.

The enticing possibility is that this nesting of networked, collaborative initiatives will evolve into new forms of governance. This is best described by Meg Wheatley and Deborah Frieze in “Using Emergence to Take Social Innovations to Scale,” as a common phase in the process of emergence characterized by “the sudden appearance of a system that has real power and influence.”<sup>93</sup> Further, Wheatley and Frieze explain how “[p]ioneering efforts that hovered at the periphery suddenly become the norm.”<sup>94</sup>

This emerging system has profound implications for regional entrepreneurs. By better understanding the emergent properties of nested, place-based collaborative efforts in a locale like the Crown of the Continent, individuals and organizations will be better poised to mobilize political power and facilitate lasting change. Coincidentally, they can also develop and test new forms of governance, thinking regionally and acting at whatever spatial scale makes sense.

These, then, are some of the governance implications that seem to be manifesting in conjunction with the ongoing emergence of collaboration (especially place-based collaboration) as a democratic form. While it may be impossible to predict with any precision what exact forms of democratic governance might actually emerge, it seems clear that the better we understand the dynamics driving these exciting and promising developments, the better positioned we will be to encourage those most likely to advance both the cause of democracy and protection of America’s natural resources.



## Endnotes: Collaboration and the Ecology of Democracy

<sup>1</sup> See generally JOHN CLEVELAND, INNOVATION NETWORK FOR COMMUNITIES, COMPLEXITY THEORY: BASIC CONCEPTS AND APPLICATION TO SYSTEMS THINKING (1994), available at <http://www.slideshare.net/johncleveland/complexity-theory-basic-concepts/download> (providing an overview of complex adaptive systems).

<sup>2</sup> E.g., Tischa A. Muñoz-Erickson, Bernardo Aguilar-González, & Thomas D. Sisk, *Linking Ecosystem Health Indicators and Collaborative Management: A Systematic Framework to Evaluate Ecological and Social Outcomes*, 12 *ECOLOGY & SOCIETY* 1, 1 (2007), <http://www.ecologyandsociety.org/vol12/iss2/art6/ES-2007-2092.pdf> (noting that collaboration is emerging as a “promising decision-making approach for resolving conflicts over the management of public lands and natural resources”).

<sup>3</sup> Donald Snow, *Coming Home: An Introduction to Collaborative Conservation*, in *ACROSS THE GREAT DIVIDE* 1, 1–2 (Philip Brick et al. eds., 2001).

<sup>4</sup> See NAT’L RESEARCH COUNCIL, PUBLIC PARTICIPATION IN ENVIRONMENTAL ASSESSMENT AND DECISION MAKING 1, 9 (Thomas Dietz & Paul C. Stern, eds., 2008) (discussing the growing tension about the continuing efficacy of public participation in agency decisionmaking).

<sup>5</sup> See Snow, *supra* note 3, at 3–6 (describing how collaborators were able to overcome gridlock among interested parties).

<sup>6</sup> Snow, *supra* note 3, at 4–6.

<sup>7</sup> See ELLEN M. WILLIAMS & PAUL V. ELLEFSON, DEP’T OF FOREST RES., PAPER NO. 113, NATURAL RESOURCE PARTNERSHIPS: FACTORS LEADING TO COOPERATIVE SUCCESS IN THE MANAGEMENT OF LANDSCAPE LEVEL ECOSYSTEMS INVOLVING MIXED OWNERSHIP 1 (1996), [http://www.forestry.umn.edu/prod/groups/cfans/@pub/@cfans/@forestry/documents/asset/cfans\\_asset\\_184413.pdf](http://www.forestry.umn.edu/prod/groups/cfans/@pub/@cfans/@forestry/documents/asset/cfans_asset_184413.pdf) (discussing how land use goals have evolved to include ecological values).

<sup>8</sup> See *About Us – Meet the Forest Service*, U.S. FOREST SERV., <http://www.fs.fed.us/aboutus/meetfs.shtml> (last visited Nov. 3, 2011); *Land Use Planning*, BUREAU OF LAND MGMT., [http://www.blm.gov/wo/st/en/prog/planning/planning\\_overview.html](http://www.blm.gov/wo/st/en/prog/planning/planning_overview.html) (last visited Nov. 3, 2011).

<sup>9</sup> See *supra* note 3 and accompanying text.

<sup>10</sup> National Environmental Policy Act of 1969, 42 U.S.C. § 4332 (2006).

<sup>11</sup> Endangered Species Act of 1973, 16 U.S.C. §§ 1531–1544 (2006).

<sup>12</sup> The National Forest Management Act of 1976, 16 U.S.C. §§ 1600–1614 (2006).

<sup>13</sup> Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701–1782 (2006).

<sup>14</sup> Federal Advisory Committee Act of 1972, 5 U.S.C. app. 2 §§ 1–16 (2006).

<sup>15</sup> See generally SARAH BATES VAN DE WETERING, PUB. POLICY RESEARCH INST. OF UNIV. OF MONT., COLLABORATIVE GOVERNANCE REP. NO. 1, THE LEGAL FRAMEWORK FOR COOPERATIVE CONSERVATION (2006), [http://cnrep.org/documents/by\\_author/bates/Final%20Legal%20Framework%20CC%20Report.pdf](http://cnrep.org/documents/by_author/bates/Final%20Legal%20Framework%20CC%20Report.pdf) (providing an overview of public resource management laws).

<sup>16</sup> See generally Michael J. Sandel, *The Procedural Republic and the Unencumbered Self*, 12 *POL. THEORY* 81 (1984) (noting how divisions of procedural authority at multiple levels make it difficult to reach workable solutions).

<sup>17</sup> Cecil D. Andrus & John C. Freemuth, *Policy After Politics: How Should the New Administration Approach Public Land Management in the Western States?*, 21 *J. LAND RESOURCES & ENVTL. L.* 1, 2 (2001).

<sup>18</sup> *Conflicting Laws and Regulations: Gridlock on the National Forests, Oversight Hearing Before the Subcomm. on Forests and Forest Health of the H. Comm. on Res.*, 107th Cong. 2–3 (2001) (statement of Rep. Scott McInnis, Chairman, Subcomm. on Forests and Forest Health).

<sup>144</sup> *Id.* at 715 (“The escalating depletion of . . . land, air, water, the corporatization and privatization of hitherto public assets, the reversion of common property rights won through years of hard class struggle to the private domain indicate a new wave of enclosing the commons”).

<sup>145</sup> Castro, *supra* note 5, at 75.

<sup>146</sup> *Id.*

<sup>147</sup> Boelens & Zwarteven, *supra* note 12, at 735, 741.

<sup>148</sup> Bebbington, et al., *supra* note 2, at 316-17; *Indigenous Water Rights*, *supra* note 23, at 271.

<sup>149</sup> *Indigenous Water Rights*, *supra* note 23, at 328.

<sup>150</sup> *Id.* at 271.

<sup>151</sup> *Id.* (Explaining that “[l]ocal territories are invaded and existing water rights often neglected”).

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> Boelens & Zwarteven, *supra* note 12, at 735-58.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.* at 744. (Revealing that “water reforms in the Andes threaten to destroy existing local and indigenous water rights systems”).

<sup>157</sup> *Water Rights*, *supra* note 23, at 328-29.

<sup>158</sup> DIK ROTH, ET AL., LIQUID RELATIONS: CONTESTED WATER RIGHTS AND LEGAL COMPLEXITY 1 (2005).

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## Endnotes: COLLABORATION AND THE ECOLOGY OF DEMOCRACY

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<sup>19</sup> See *The Lubrecht Conversations*, CHRONICLE OF COMMUNITY, Autumn 1998, at 9.

<sup>20</sup> USDA FOREST SERV., THE PROCESS PREDICAMENT: HOW STATUTORY, REGULATORY, AND ADMINISTRATIVE FACTORS AFFECT NATIONAL FOREST MANAGEMENT (2002), <http://www.fs.fed.us/projects/documents/Process-Predicament.pdf>.

<sup>21</sup> USDA FOREST SERV., *Id.*

<sup>22</sup> See Snow, *supra* note 3, at 2 (describing “collaborative conservation” as an emerging movement that “reaches across the great divide connecting preservation advocates and developers, commodity producers and conservation biologists, local residents, and national interest groups to find working solutions to intractable problems that will surely languish unresolved for decades in the existing policy system”).

<sup>23</sup> E.g., Snow, *supra* note 3, at 4.

<sup>24</sup> See Snow, *supra* note 3, at 2; see also Williams & Ellefson, *supra* note 7, at 1 (discussing the various stakeholders that may be involved in resource partnerships).

<sup>25</sup> See *From Troubled Waters: The Emergence of Collaborative Conservation*, in ACROSS THE GREAT DIVIDE 13, 13-14 (Philip Brick et al. eds., 2001) (introducing several essays that address the emergence of collaborative conservation groups).

<sup>26</sup> Philip Brick & Edward P. Weber, *Will Rain Follow the Plow? Unearthing a New Environmental Movement*, in ACROSS THE GREAT DIVIDE 15, 15 (“Collaboratives are a response to dysfunctional environmental strategies and policy processes, but are also symbiotically dependent on them.”).

<sup>27</sup> See Andrus & Freemuth, *supra* note 17, at 11 (concluding that collaborative processes “matter[] most” in the West).

<sup>28</sup> See Snow, *supra* note 3, at 6-7; Michael McCloskey, *The Skeptic: Collaboration Has Its Limits*, HIGH COUNTRY NEWS (May 13, 1996), <http://www.hcn.org/issues/59/1839>.

<sup>29</sup> See *infra* notes 49-68 and accompanying text (describing the Blackfoot Challenge as an illustration of agency involvement in the collaborative movement).

<sup>30</sup> See Snow, *supra* note 3, at 6-7 (“Collaborative groups are usually ad hoc and ex parte. They often lack corporate status and are informal in structure.”).

<sup>31</sup> See generally Ed Marston, *The Quincy Library Group: A Divisive Attempt at Peace*, in ACROSS THE GREAT DIVIDE 79 (Philip Brick et al. eds., 2001) (providing a case study of the Quincy Library Group Partnership).

<sup>32</sup> Herger-Feinstein Quincy Library Group Forest Recovery Act Record of Decision: Final Environmental Impact Statement, [http://www.fs.fed.us/r5/hfqlg/archives/record\\_of\\_decision/](http://www.fs.fed.us/r5/hfqlg/archives/record_of_decision/) (last visited Nov. 4, 2011).

<sup>33</sup> Herger-Feinstein Quincy Library Group Forest Recovery Act Record of Decision: Final Environmental Impact Statement, *Id.*

<sup>34</sup> The National Forest Management Act of 1976, 16 U.S.C. §§ 1600-1614 (2006).

<sup>35</sup> ECOSYSTEM RESEARCH GROUP, DRAFT PARTNERSHIP STRATEGY FOR THE BEAVERHEAD-DEERLODGE NATIONAL FOREST (2006), <http://www.mtmultipleuse.org/wilderness/B-DpartnershipStrategy.pdf>.

<sup>36</sup> Ted Fellman, *Collaboration and the Beaverhead-Deerlodge Partnership: The Good, the Bad, and the Ugly*, 30 PUB. LAND & RESOURCES L. REV. 79, 93 (2009).

<sup>37</sup> See *supra* notes 4-5 and accompanying text.

<sup>38</sup> Fellman, *supra* note 36, at 95.

<sup>39</sup> Phil Taylor, *Wilderness Bills Proliferate as Promoters Hope to Break 2-Year Drought*, N.Y. TIMES (May 3, 2011), <http://www.nytimes.com/gwire/2011/05/03/03greenwire-wilderness-bills-proliferate-as-promoters-hope-16290.html?pagewanted=all>.

<sup>40</sup> *Public Lands and Forests Legislation: Hearing on S.1470, S. 1719, S.1787, H.R. 762, and H.R. 934 Before the Subcomm. on Public Lands and Forests of S. Comm. on Energy & Natural Resources*, 111th Cong. 45-46 (2009) (statement of Sherman Anderson, President and Owner, Sun Mountain Lumber, Inc.).

<sup>41</sup> Ray Ring, *Taking Control of the Machine*, HIGH COUNTRY NEWS (July 20, 2009), <http://www.hcn.org/issues/41.12/taking-control-of-the-machine>.

<sup>42</sup> Ring, *supra* note 41.

<sup>43</sup> Ring, *supra* note 41; see also ECOSYSTEM RESEARCH GROUP, *supra* note 35, at 4.

<sup>44</sup> E.g., Ring, *supra* note 41; ECOSYSTEM RESEARCH GROUP, *supra* note 35.

<sup>45</sup> Ring, *supra* note 41; ECOSYSTEM RESEARCH GROUP, *supra* note 35.

<sup>46</sup> E.g., Ring, *supra* note 41; ECOSYSTEM RESEARCH GROUP, *supra* note 35.

<sup>47</sup> ECOSYSTEM RESEARCH GROUP, *supra* note 35, at 23-27.

<sup>48</sup> Forest Jobs and Recreation Act of 2011, S. 268, 112th Cong. (2011); see also Ring, *supra* note 41.

<sup>49</sup> *Who We Are\_History*, BLACKFOOT CHALLENGE, <http://blackfootchallenge.org/Articles/?p=185> (last visited Nov. 4, 2011); see also *Blackfoot Community Conservation Area*, BLACKFOOT CHALLENGE (Feb. 2010), [http://blackfootchallenge.org/Articles/wp-content/uploads/2010/06/Blackfoot-Community-Conservation-Area\\_2010.pdf](http://blackfootchallenge.org/Articles/wp-content/uploads/2010/06/Blackfoot-Community-Conservation-Area_2010.pdf) (mapping out the entire Blackfoot Community Conservation Area (BCCA)).

<sup>50</sup> *Who We Are*, BLACKFOOT CHALLENGE, <http://blackfootchallenge.org/Articles/?cat=3> (last visited Nov. 4, 2011).

<sup>51</sup> Sonja Lee, *Blackfoot Challenge Rises to the Task*, GREAT FALLS TRIB. (Aug. 21, 2005), <http://blackfootchallenge.org/Articles/?p=116>.

<sup>52</sup> Rob Chaney, *Montanans See Their Ideas in Obama Outdoors Initiative*, MISSOULIAN, (Feb. 17, 2011, 8:45 PM), [http://missoulain.com/news/state-and-regional/article\\_71277f94-3b0e-11e0-be21-001cc4c03286.html](http://missoulain.com/news/state-and-regional/article_71277f94-3b0e-11e0-be21-001cc4c03286.html) (“‘I can’t stress enough how that impresses me, that Washington is finally starting to get it,’ said Iverson, a Potomac rancher and logger who helps lead the Blackfoot Challenge.”).

<sup>53</sup> Telephone interview with Denny Iverson, Treasurer, Blackfoot Challenge Board, (Feb. 24, 2011).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Who We Are*, *supra* note 50.

<sup>69</sup> See *supra* note WETERING, *supra* note 15 and accompanying text.

<sup>70</sup> See *About VDCP*, VALLESCALDERA, <http://www.vallescaldera.gov/about/> (last visited Nov. 4, 2011).

<sup>71</sup> Valles Caldera Preservation Act, 16 U.S.C. § 698v (2006); see also WETERING, *supra* note 15, at 18.

<sup>72</sup> 16 U.S.C. § 698v (2006).

<sup>73</sup> 16 U.S.C. § 698v-5.  
<sup>74</sup> 16 U.S.C. § 6501(1) (2006).  
<sup>75</sup> 16 U.S.C. § 6501(1).  
<sup>76</sup> National Forest Management Act, 16 U.S.C. § 1600(6) (2006).  
<sup>77</sup> 36 C.F.R. § 219.1 (2009).  
<sup>78</sup> ALYSON FLOURNOY ET AL., CTR. FOR PROGRESSIVE REFORM, REGULATIONS IN NAME ONLY: HOW THE BUSH ADMINISTRATION'S NATIONAL FOREST PLANNING RULE FREES THE FOREST SERVICE FROM MANDATORY STANDARDS AND PUBLIC ACCOUNTABILITY 3–4 (2005).  
<sup>79</sup> Press Release, U.S. Forest Service, USDA Forest Service Launches Collaborative Process for New Planning Rule (Dec. 17, 2009), <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2009/12/0620.xml>.  
<sup>80</sup> *Collaboration & Public Involvement*, U.S. FOREST SERV., [http://www.fs.usda.gov/wps/portal/fsinternet!/ut/p/c4/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os-3gjAwhwtDDw9\\_AI8zPwhQoY6BdkOyoCAPkATIA!/?ss=119987&navtype=BROWSEBYSUBJECT&cid=null&navid=131000000000000&pnavid=null&position=BROWSEBYSUBJECT&ttype=main&pname=Planning%20Rule-%20Collaboration%20&%20Public%20Involvement](http://www.fs.usda.gov/wps/portal/fsinternet!/ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os-3gjAwhwtDDw9_AI8zPwhQoY6BdkOyoCAPkATIA!/?ss=119987&navtype=BROWSEBYSUBJECT&cid=null&navid=131000000000000&pnavid=null&position=BROWSEBYSUBJECT&ttype=main&pname=Planning%20Rule-%20Collaboration%20&%20Public%20Involvement) (last visited Nov. 4, 2011).  
<sup>81</sup> NAT'L RESEARCH COUNCIL, *supra* note 4, at 37–38.  
<sup>82</sup> See generally Martin Nie & Michael Fiebig, *Managing the National Forests through Place-Based Legislation*, 37 *ECOLOGY L.Q.* 1 (2010) (analyzing forest-specific, place-based legislation from multiple standpoints).  
<sup>83</sup> *Public Lands and Forests Legislation: Hearing on S.1470, S. 1719, S.1787, H.R. 762, and H.R. 934 Before the Subcomm. on Public Lands and Forests of S. Comm. on Energy & Natural Resources*, 111th Cong. 101 (2009) (statement of Martin Nie, Professor, College of Forestry and Conservation, Univ. of Montana).

<sup>84</sup> *Public Lands and Forests Legislation: Hearing on S.1470, S. 1719, S.1787, H.R. 762, and H.R. 934 Before the Subcomm. on Public Lands and Forests of S. Comm. on Energy & Natural Resources*, 111th Cong. 19 (2009) (statement of Harris Sherman, Undersecretary Natl. Res. & Env't, Dep't of Agric. Env't).  
<sup>85</sup> See *supra* notes 22–26 and accompanying text (describing how the collaboration movement is emerging largely in response to the failures of the traditional governing framework).  
<sup>86</sup> CHARLES DARWIN, *ON THE ORIGIN OF SPECIES BY MEANS OF NATURAL SELECTION, OR THE PRESERVATION OF FAVOURED RACES IN THE STRUGGLE FOR LIFE* (1859), available at <http://darwin-online.org.uk/content/frameset?viewtype=side&itemID=F401&pageseq=2>.  
<sup>87</sup> See Snow, *supra* note 3, at 6–7 (discussing the defining characteristics of collaboration); see also *Democracy's Organic Dimension*, Kettering Found., [http://www.kettering.org/ketterings\\_research/Democracys\\_Organic\\_Dimension](http://www.kettering.org/ketterings_research/Democracys_Organic_Dimension) (last visited Nov. 29, 2011) (noting that the “organic foundation of ad hoc associations and civic organizations” coexists with procedural democracy).  
<sup>88</sup> *Supra* notes 49–57 and accompanying text.  
<sup>89</sup> *Supra* note 51 and accompanying text.  
<sup>90</sup> *Supra* notes 49–57 and accompanying text.  
<sup>91</sup> Nie & Fiebig, *supra* note 82, at 18; see also Snow, *supra* note 3, at 4 (“[E]nvironmental conflicts in the West tend to breed long-standing hostilities and help to fracture communities . . .”).  
<sup>92</sup> See generally Nie & Fiebig, *supra* note 82 (questioning forest-specific, place-based legislation’s “governance, conflict resolution, precedent, wilderness designation, and funding” processes).  
<sup>93</sup> Meg Wheatley & Deborah Frieze, *Using Emergence to Take Social Innovations to Scale*, FIELDNOTES, Winter 2007, at 4.  
<sup>94</sup> Wheatley & Frieze, *Id.*