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INSTITUTING COLLABORATIVE CONSERVATION IN FEDERAL LAND
MANAGEMENT: THE BLM'S RESOURCE ADVISORY COUNCILS AS AN
EXAMPLE

By

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Thesis presented in partial fulfillment of the requirements

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in
Environmental Studies

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Abstract

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Environmental Studies

Abstract

Chair: Len Broberg

Collaborative Conservation is one type of Environmental Conflict Resolution (ECR) that, since the 1970's, has proliferated throughout public land and natural resource management, especially in the Western United States. As the notion of collaboration has risen in the collective consciousness of public land management professionals, various efforts to capitalize on its use have been instituted through regulatory reforms and legislation. For example, the Forest Service's recent adoption of the 2012 planning rule emphasizes collaboration and enhanced public involvement in revising forest management plans. Meanwhile, for twenty years the Resource Advisory Councils have fulfilled their regulatory responsibilities and exemplify policy mandated collaborative consensus-building process, yet little research has been conducted to understand what contributes to their effectiveness.

This study investigates the effect of instituting or requiring collaborative conservation in the management of public lands by examining the Resource Advisory Councils (RACs) as they are employed within the Bureau of Land Management. This study seeks to understand the key benefits and features of the RAC institution that enable its effectiveness by asking: what can be learned from the Rocky Mountain Region RACs as an example for how collaborative problem solving can be instituted in public lands management? And, how can these lessons inform future attempts to institute collaborative governance within the legal and institutional framework of federal public lands management?

An analysis of records from past meetings and interviews with RAC and agency staff members resulted in a comprehensive understanding of the issues over which the RACs deliberate, their process for formulating recommendations and what benefits are realized from the program. Responses from the interviews indicated a high level of value associated with participating in the RAC program such as increased trust between participants, appreciation of the complexity of controversial issues, and an ability to help the BLM make difficult decisions. Several recommendations for improvement are also highlighted.

In an age of ceaseless animosity over the management of federal public lands, this study contributes to advancing the integration of collaborative problem solving in federal lands management and gives voice to the positive effects of community-based conflict resolution.

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Thanks especially to my committee. Len, Martin and Matt, I couldn't have done this without your support, guidance and insights into the creation and refinement of this project. Thank you for believing in me, even when I had my doubts. Thanks to the Environmental Studies Department and all the UMT Faculty who dedicate their careers to encouraging folks like me to explore their passions, ask the tough questions, and clarify the answers.

Finally, this project and the resulting paper would not have been possible without the cooperation of the Bureau of Land Management, all the Agency's staff and RAC members who so graciously participated in this study. Thank you for your time, patience cooperation and dedication to collaborative governance of our public lands.

For Dicky Jo and Mary Lou who taught me how to build a strong foundation:
Look for the joy in life, interject it with plenty of laughter,
spice it with just the right amount of sarcasm,
maintain a reverence for the wild,
and always dance to the music.

I miss you every day.

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1. Introduction

Collaborative Conservation is one form of Alternative Dispute Resolution (ADR) or Environmental Conflict Resolution (ECR) that, since the late 1970's, has proliferated throughout public land and natural resource management, especially in the Western United States. Whether considered a passing fad or the new way of doing business, collaborative approaches to natural resource conflict resolution, environmental decision making, and land-use planning have undeniably left their mark on the history of natural resource management over the past thirty years. The ability of collaborative conservation to achieve on the ground results by bringing together diverse, often adversarial interests to solve natural resource problems has caught the attention of policy makers at both the state and federal level. This study investigates the institutionalization, or instituting¹ of such collaborative processes of ECR within federal agencies by focusing on the example of the Resource Advisory Councils (RACs) within the United States Department of Interior's Bureau of Land Management (BLM).

This investigation follows two main threads of inquiry. First, what can be learned from the Rocky Mountain Region RACs, as an example for how collaborative problem solving can be instituted in public lands management? Second, how can these lessons inform future attempts to institute collaborative governance within the legal and institutional framework of federal public lands management? In approaching this investigation, three research questions were developed to probe both the policy and

¹ Christine Carlson and John Stephens. *Governance and institutionalization: How may the institutions of government make appropriate, sustained use of consensus building processes at the local, state, and federal levels?* Unpublished manuscript. (October 3, 2002). On file with the Author. In their article, the authors distinguish between *institutionalize*, which is, "...synonymous with *bureaucratize*, a mindless consistency, active suppression of innovation, and frustration of common-sense problem-solving..." and *institute*, which better describes how "...dispute resolution or collaborative practices can be employed by government."

practical aspects of the BLM RACs as an institution: 1) What catalyzed the use of collaboration in creating the RACs? 2) What has enabled the RACs to achieve their core purpose? 3) What sustains the RACs over time as a collaborative arrangement instituted by a policy mandate within a federal land management agency? Together the suite of questions guides this study through an exploration of the legal arrangement Resource Advisory Councils have within the BLM, and the effect instituting the RACs within the BLM has had on public participation and collaborative conservation in BLM land and natural resource management.

This paper begins by highlighting the legal framework for public participation in federal public land and natural resource planning and decision making. This framework both created the conditions for collaborative processes of ECR to evolve and poses limitations to their use. Next, the paper introduces community-based collaborative conservation initiatives and discusses the evolution, theory and design principles that guide successful systems of collaborative dispute resolution. This discussion sets the stage for outlining the criteria used to analyze and evaluate the RACs in subsequent chapters. Finally, an introduction of the idea of instituting collaborative processes within federal agency planning and decision making justifies this investigation while briefly illustrating examples of where else this is occurring in other federal agencies.

Chapter three briefly outlines the history of the Bureau of Land Management and its relationship with community-based collaborative governance. This discussion provides a rationale for looking more deeply into the Resource Advisory Councils as an example of a collaborative process instituted by a policy mandate within a federal land management agency. It traces the evolution of the agency's statutory and regulatory mandates, the reforms that created the RACs in the 1990's, and provides justification for the selection of

the BLM RACs to answer the above research questions. The end of chapter three addresses research sub-question #1: What catalyzed the use of collaboration in creating the RACs?

Chapter Four constitutes the original research for this study and explores sub-questions two and three: What has enabled the RACs to achieve their core purpose as outlined in the regulations? And, what sustains the RACs over time as a collaborative arrangement instituted by a policy mandate within a federal land management agency? Through in-depth personal interviews of RAC members and BLM agency staff, this study explores the effectiveness of institutionalizing collaboration (in the form of the RACs) as evaluated through the lens of the collaborative process design and evaluation theory outlined in chapter two.

Chapter five concludes this study by reflecting on the findings from the RAC interviews to answer the two primary research questions mentioned above. This reflection compares the RACs to the principles of dispute resolution process design and collaborative governance to draw out lessons that could help improve the RAC program or inform attempts to further institute and integrate collaborative conservation in other areas of land use or natural resource management.

Purpose, Need, and Justification

This research examines the use of Resource Advisory Councils (RACs) in the Bureau of Land Management (BLM) as an example of a twenty-year experiment in implementing a policy-mandated forum for collaborative conservation in federal public land management. The RACs were instituted by Secretary Bruce Babbitt under the regulatory reform known as Rangeland Reform '94.² For twenty years, the RACs have formally brought together diverse,

² Department of Interior, Bureau of Land Management. *Rangeland Reform '94 Final Environmental Impact Statement*. Bureau of Land Management, Washington DC. (1994): 3. [cited hereafter as Rangeland Reform '94 FEIS].

often adversarial interests to collaborate and provide consensus-based advice on management issues to the BLM throughout the Western United States. This study investigates the effects of the regulatory mandate on the collaborative process, public participation in BLM land management decision making, and the principles of democratic governance.

This process of collaborative problem solving is not a unique phenomenon. Other forms of ADR are being instituted in other branches of the Federal Government. The US Department of Agriculture's Forest Service, the Department of Interior's National Park Service and BLM, the Environmental Protection Agency (EPA), even the Department of Defense are utilizing ADR practices in land use planning and natural resource decision making. Examples include the Collaborative Forest Landscape Restoration Program (CFLRP), the Forest Service's 2012 Planning Rule, and programs for alternative dispute resolution outlined in the Clean Air Act, Clean Water Act and a myriad of state programs.³ In 1993, the US Institute for Environmental Conflict Resolution was established under the Udall Foundation as national support structure for agency professionals facing conflicts over environmental issues on the lands and resources they manage. That these programs and policies are being broadly instituted throughout the Department of Agriculture, the Department of the Interior and other Federal Agencies is a testament to their perceived effectiveness and warrants looking more deeply into the effects of this institutionalization.

Over time, evaluation of ECR processes has developed into a field of inquiry in itself. Scholars and dispute resolution professionals have developed an array of methods to evaluate the effectiveness collaborative processes of consensus building, problem solving

³ Sara Bates Van De Wetering. *A Legal Framework for Cooperative Conservation*. Public Policy Research Institute of the University of Montana. (2006).

and governance.⁴ These evaluations have primarily taken a case study approach, evaluating individual processes since the late 1990's.⁵ Some scholars have investigated mandated processes of dispute resolution,⁶ and others have evaluated the social effects or management outcomes of policy mandated collaborative processes such as the CFLRP.⁷ One University of Montana Thesis project from 2003 took strides in evaluating how the RACs were meeting their stated goals after ten years of implementation. However, this study stopped short of assessing the larger implications of mandating collaborative governance on the decision making and public engagement process. While substantial literature outlines criteria for evaluating collaborative processes and methods for doing so, to date, little research has been conducted on the effects of instituting a process for collaborative governance on planning, decision making and public engagement.⁸ This study is one attempt to do so.

Definitions

Alternative Dispute Resolution (ADR) is defined by the Alternative Dispute Resolution Act of 1993 as any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact-finding, mini trials, arbitration, and use of ombuds, or any combination thereof.⁹

⁴ Alexander Conley & Margaret A. Moote. "Evaluating Collaborative Natural Resource Management." *Society & Natural Resources: An International Journal*. Vol. 16, No. 5 (2003): 371-386. The authors give a good overview of existing evaluation methods used by scholars in determining the success of approaches to environmental conflict Resolution.

⁵Matthew McKinney and Patrick Field. "Evaluating Community-Based Collaboration on Federal Lands and Resources." *Society & Natural Resources: An International Journal*. Vol. 21 No. 5(2008): 419-429.

⁶ Sara B. Van de Wetering and Matthew McKinney. "The Role of Mandatory Dispute Resolution in Federal Environmental Law: Lessons from the Clean Air Act." *Journal of Environmental Law and Litigation*. Vol. 21, No. 1 (2006): 1-45.

⁷ Courtney Schultz, Theresa Jedd, and Ryan D. Beam. "The Collaborative Forest Landscape Restoration Program: A History and Overview of the First Projects." *Journal of Forestry*. Vol. 110, No. 7 (2012): 381-391.

⁸ Dukes, E. Franklin. What we know about environmental conflict resolution: An analysis based on research. *Conflict Resolution Quarterly*. Vol. 22, No. 1-2 (2004):191-220.

⁹ Pub. L. 114-38 codified as amended 5 USC § 571(3)

Environmental Conflict Resolution (ECR) is described by the Office of Management and Budget as third-party assisted conflict resolution in the context of environmental, public lands, or natural resources issues.¹⁰ The Udall Foundation's U.S. Institute of Environmental Conflict Resolution goes on to refine the definition by saying, "The term "ECR" encompasses a range of assisted negotiation processes and applications. These processes directly engage affected interests and governmental decision makers in conflict resolution and collaborative problem solving."¹¹

Public Involvement is defined for the BLM in the Federal Land Policy and Management Act (FLPMA) of 1976 as, "...the opportunity for participation by affected citizens in rule making, decision making, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance."¹²

The term *public lands* has various definitions. For example, FLPMA defines public lands as, "any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership..."¹³ The Secure Rural Schools Act of 2000 defines Public Lands as, "lands within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16

¹⁰ Office of Management and Budget and the President's Council on Environmental Quality. *Memorandum on Environmental Collaboration and Conflict Resolution*. Available at: https://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2012.pdf

¹¹ U.S. Institute of Environmental Conflict Resolution. *Frequently Asked Questions: What is Environmental Conflict Resolution?* Accessed 11/20/15. Available: <https://www.udall.gov/OurPrograms/Institute/QuestionsAnswers.aspx>

¹² U.S. Department of the Interior, Bureau of Land Management and Office of the Solicitor (editors). *The Federal Land Policy and Management Act, as amended*. U.S. Department of the Interior, Bureau of Land Management Office of Public Affairs. Washington, D.C. (2001): Pg. 2.

¹³ *Ibid*; 2.

U.S.C. 1609(a)) exclusive of the National Grasslands..."¹⁴ As the term pertains to this study, public lands means the portion of the federal public estate managed by the USDA Forest Service and the DOI Bureau of Land Management, the two multiple-use land management agencies.

One definition of *collaboration* that has been widely accepted by scholars throughout the academic literature since it was first articulated by Barbara Gray in 1985 is; "The pooling of appreciations and/or tangible resources, e.g., information, money, labor, etc., by two or more stakeholders to solve a set of problems which neither can solve individually."¹⁵

Collaboration is also defined by the agencies in various ways:

According to the USDA Forest Service 2012 Planning Rule, *collaboration* or *collaborative process* is collectively defined as, "A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner toward a common purpose."¹⁶

Collaboration is defined by the BLM FACA Handbook¹⁷ as, "A way of bringing communities together to address common problems; work through conflicts; and develop forward-thinking strategies for medium- to long-term multiple use management, protection, and development."

According to the Collaborative Forest Landscape Restoration Program (CFLRP), *collaboration*, "Includes multiple interested persons representing diverse interests; and is

¹⁴ Pub. L. 106-303 § 3(1)(a)

¹⁵ Gray, Barbara. "Conditions Facilitating Interorganizational Collaboration." *Human Relations* Vol. 30, No. 10(1985): 911-936, p. 912

¹⁶ 36 CFR 219.19 Available at: <http://www.ecfr.gov>

¹⁷ Bureau of Land Management. *National Policy for the Federal Advisory Committee Act*. Bureau of Land Management. Washington DC. (2005): 1.

transparent and nonexclusive; or meets the requirements for a resource advisory committee...”

Democratic Governance and *Collaborative Governance* are defined as, “A governing arrangement where one or more public agencies directly engage non-state stakeholders in a collective decision-making process that is formal, consensus-oriented, and deliberative and that aims to make or implement public policy or manage public programs or assets.”¹⁸; or “...the art of governing communities in participatory, deliberative, and collaborative ways”¹⁹

Institutionalization is defined by Stephens and Carlson as, “instituting or integrating processes of alternative dispute resolution and collaborative practices in government.” They are careful to distinguish between *instituting* and *institutionalizing* which, “to some is synonymous with *bureaucratize*, a mindless consistency, active suppression of innovation, and frustration of common-sense problem-solving.”²⁰ Throughout this study, the term *instituted* has been adopted in favor of *institutionalize* to encompass all the activities of integrating a collaborative process into planning and decision making.

Research Methods and Assumptions

The primary research in this study investigates the effect of instituting a citizen-based collaborative governance arrangement in federal land management. The effect of instituting this collaborative process is evaluated based on three criteria: 1) how the RACs perform compared to their regulatory mandates, 2) the level of satisfaction participants felt with the collaborative process as it is structured within the BLM RACs, and 3) how the BLM

¹⁸ Matt Leighninger. *The Next Form of Democracy: How Expert Rule is Giving Way to Shared Governance...And Why Politics Will Never Be the Same*. Vanderbilt University Press. (2006).

¹⁹ Chris Ansell and Alison Gash. "Collaborative Governance in Theory and Practice." *Journal of Public Administration Research and Theory*. Vol. 18, No. 4 (2008):543-571

²⁰ Carlson and Stephens. (2002): 2.

RAC process compares with principles for successful dispute resolution design articulated in the literature on the evaluation of collaborative processes of ECR.

Background research began in October of 2014 and consisted of a review of relevant literature on alternative dispute resolution, environmental conflict resolution, and collaborative conservation theory and practice. Once the RACs were selected as the example of policy mandated collaboration to further investigate, the geographic scope of this project was limited to the Rocky Mountain States in an attempt to define a region of comparable climatic, geographic, and socio-political characteristics and management issues. A document analysis was then conducted of the available meeting minutes from the past two years of all sixteen RACs within the Rocky Mountain States of Montana, Wyoming, Idaho, Colorado, Utah, New Mexico and Arizona. This analysis resulted in a comprehensive understanding of the issues over which the Rocky Mountain RACs are currently deliberating; their agenda setting, discussion and decision making procedures; past advice provided to the BLM and overlapping topics between districts in the region. This background research informed the selection of case studies. These case studies facilitated a deeper investigation into the perception of the RAC program's effectiveness and successes through personal interviews of RAC members and agency representatives.

From the document review, a stratified purposive sample of five Rocky Mountain RACs was selected. The RACs were selected based on two factors: 1) to represent the geographic diversity from across the seven-state Rocky Mountain region, and 2) to represent the diverse structural models outlined in 43 CFR § 1784.6-2 within which the RACs can be organized.²¹ The initially selected sample included five RACs. Unfortunately,

²¹ The RACs can be organized based on one of three models described in 43 CFR §1784.6-2. Most RACs investigated in this study were organized under Model C which, among other things, allows the liberal use of sub-RACs.

one of the RACs was unresponsive to repeated requests for interviews, and so ultimately interviews of RAC members and agency staff from the remaining four RACs were conducted.

A full set of interviews was defined as one BLM Representative who had a direct connection to the RAC, and one RAC member from each of the three interest categories. A complete set of interviews was conducted for three of the RACs, while the final RAC was also extremely slow to respond to requests for interviews, and due to time constraints resulted in only two interviews: one RAC member and a BLM staff member. A total of 14 in-depth, semi-structured interviews were conducted between March and May of 2015. Although a limited sample population, the interviews provided a comprehensive view of the RACs benefits, successes and challenges from a significant cross section of RAC members and agency staff who are intimately involved with the program. The interview questions explored four main topics: 1) participants motivation for and benefits from being involved with the RAC, 2) definition of and key factors enabling success, 3) the tangible and intangible results experienced or observed from working with the RAC, and 4) advice to guide instituting future collaborative processes of ECR (see interview guide: Appendix I). Interviews were transcribed by the principle investigator and comments were analyzed for common themes using a grounded theory approach.²² Themes were based on the evaluation criteria discussed in chapter two.

The evaluation criteria developed for this study were adapted from literature on the evaluation of community-based collaborative processes of consensus building and ECR. The works of Leech²³, Innes and Booher²⁴, and McKinney and Field²⁵ were largely informative in

²² See generally: Hesse-Biber, S. N. & Leavy, P. *The Practice of Qualitative Research*. Thousand Oaks, CA: Sage Publications. (2006):348.

²³ William D. Leach. "Collaborative Public Management and Democracy: Evidence from Western Watershed Partnerships." *Public Administration Review*; Vol. 66. (2006): 100-110.

²⁴ Judith E. Innes and David E. Booher. "Consensus Building and Complex Adaptive Systems." *Journal of the American Planning Association*. Vol. 65, No. 4 (1999): 412-423.

the development of the evaluation criteria. A discussion of the history, design theory, and methods for evaluation of collaborative processes of decision making and dispute resolution in public lands and natural resource management follows in Chapter Two. This discussion serves two purposes. First, it provides the context for exploring the RACs as an appropriate model for analyzing the effects of instituting collaborative processes in federal agency planning and decision making. Second, it establishes the evaluation criteria that will be used to understand the effectiveness of instituting this collaborative model in federal agency planning and decision making.

After discussing the interviews in aggregate, the RAC institutional model is evaluated based on the principles of democratic governance and dispute resolution process design discussed by Leighninger,²⁶ Selin and Chavez,²⁷ Leach,²⁸ Innes and Booher,²⁹ and other scholars discussed in chapter two.³⁰ Relying on the work of these scholars, a framework for successful collaborative process design is constructed, and the participant interviews are used to evaluate the RAC model in the context of this framework. Key benefits and a set of recommendations are then distilled from this evaluation in an attempt to highlight possible improvements to the RAC model, or to guide future endeavors to institute collaborative conservation in public land and resource management.

This study relies on several critical assumptions. First, the RACs were established in 1995 through a series of regulatory reforms.³¹ Each individual RAC is authorized through a

²⁵ Matthew McKinney and Patrick Field. "Evaluating Community-Based Collaboration on Federal Lands and Resources." *Society & Natural Resources*. Vol. 21, No. 5 (2008): 419-429.

²⁶ Leighninger (2006)

²⁷ Steve Selin and Deborah Chavez. "Developing a Collaborative Model for Environmental Planning and Management." *Environmental Management* Vol. 19, No. 2 (1995): 189-195.

²⁸ Leach (2006)

²⁹ Innes and Booher (1999)

³⁰ See *infra* note 106: Conley and Moote (2001); Ury, Brett and Goldberg (1993); McKinney and Field (2008).

³¹ See: Rangeland Reforms '94 *infra* note 219.

charter signed by the Secretary of the Interior which is required to be renewed every two years.³² The assumption reasons that since the Secretary has continuously renewed the RAC charters for twenty years, they are, at minimum, fulfilling their regulatory responsibilities as codified in the regulations. Second, observing the RACs through the lens of collaborative process design and evaluation principles established by scholars and professionals in the field of Environmental Conflict Resolution can help to paint a picture of the effectiveness of the RACs as they have been instituted within the BLM. Third, by investigating the RACs in this way, lessons can be learned to inform how collaborative conservation could be instituted in other areas of public land and natural resource management.

It should also be noted that while the RACs were established to provide advice to the BLM on land and natural resource management issues from a local perspective, the BLM and the Secretary of the Interior retain all final decision making authority.³³ Consequently, how the RAC's advice and recommendations are used is entirely at the discretion of the local managers and may or may not be incorporated into policies or on-the-ground action. Therefore, this study focuses on successes, challenges and recommendations identified through the document review and by the participating RAC members rather than the on-the-ground outcomes of RAC advice. Certainly, on-the-ground improvements in management or ecological integrity are the ultimate goal of any collaborative conservation program.³⁴ However, since the BLM has no obligation to implement the recommendations of the RACs, it is difficult to assess how their advice translates to on the ground

³² 43 CFR § 1784.1-2(b) states: "Any advisory committee mandated by statute shall terminate not later than 2 years after the date of its establishment unless its duration is otherwise provided by law. Upon the expiration of each successive two-year period following date of establishment, a new charter shall be prepared and, after Secretarial approval, filed with the appropriate committees of the Senate and House of Representatives for any statutory advisory committee being continued."

³³ 43 CFR § 1784.5-1

³⁴ See: Conley and Moote (2003) *infra note 135* at pg. 380.

management. Further, participant satisfaction has long been used by scholars and conflict resolution professionals as a method to evaluate collaborative process design.³⁵ The degree of participant satisfaction for this study was gauged through the in-depth, personal interviews of members of fourteen Resource Advisory Committee members and agency staff within the Rocky Mountain States and analyzed through the framework of the evaluation criteria discussed below.

A more thorough discussion of the interview methods, analysis, sampling techniques, and evaluation criteria precedes the discussion of the results in chapter four.

2. Public Participation and Collaboration in Public Lands Management

As discussed in the preceding chapter, the term “public lands” has several definitions. For the purposes of this study, the term was limited to include lands managed under federal jurisdiction by the USDA Forest Service and the DOI Bureau of Land Management, the two federal land management agencies charged with a multiple-use mandate. Although these two agencies have their own origins, agency cultures, and legal and regulatory obligations, the multiple-use mandate distinguishes them from the other two Federal Land management agencies: the DOI’s Park Service and Fish and Wildlife Service. While both the Park Service and the Fish and Wildlife Service manage public lands (the National Park System and the National Wildlife Refuges, respectively), their management requirements prioritize protection and preservation rather than the diverse spectrum of multiple-use management that directs the Forest Service and the Bureau of Land management. Multiple-use management is defined in the Multiple Use Sustained Yield act of 1960 as:

³⁵ McKinney and Field (2008): See Generally for an argument on participant satisfaction as a basis for evaluation of collaborative models.

The management of all the various renewable surface resources...so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.³⁶

While the Forest Service and the Bureau of Land Management are indeed unique agencies, operating under their own legal and regulatory frameworks, management plans, and under two distinct departments of the Federal government, the fact that they are both directed to manage the lands under the multiple-use sustained yield philosophy aligns them more as kin. Comparisons have often been made between the two agencies by both policy makers and academics. In fact, some have called for restructuring of the Forest Service within the Department of Interior, arguing such a consolidation would increase efficiencies and co-management of adjoining lands, decrease inconsistencies, and better address the increasing ecological effects of climate change and wildfire.³⁷ The similarities between the two agencies warrant a closer look at the legal mandates that affect public participation and collaboration within each of their land use planning directives. A final assumption of this study is that looking more closely into one could help to inform the practices of the other.

³⁶ The definition of “Multiple Use” as quoted from the Multiple Use Sustained Yield Act of 1960. Pub. L. 86-517 § 4(a). This act is used as the basis for defining the management requirements in the Federal Lands Policy and Management Act (FLPMA) of 1976 and the National Forest Management Act (NFMA) of 1976, the two acts that mandate a multiple use philosophy of management to the BLM and the Forest Service, respectively.

³⁷ See generally: GAO report dated February 2009 titled: *Observations on a Possible Move of the Forest Service into the Department of Interior*. In the report’s third appendix, the GAO discusses five historical proposals for restructuring the Forest Service and the BLM. The five proposals generally approach reorganization in two ways, which are not mutually exclusive: reorganizing the agencies themselves or reorganizing the agencies’ lands. Available: <http://www.gao.gov/products/GAO-09-223>

The legal framework for public participation

Federal public land management planning and decision making under the Forest Service and the Bureau of Land Management is primarily governed by four major federal laws that require public participation: 1) the Administrative Procedures Act (APA), 2) the National Environmental Policy Act (NEPA), 3) Federal Lands Policy and Management Act (FLPMA), and the 4) National Forest Management Act (NFMA). In addition, where citizen-based groups are operating in an official advisory capacity to an agency, the Federal Advisory Committee Act (FACA) may apply.

A unique feature of the BLM RACs is the institution's construction within the framework of FACA, which outlines procedures for public notice, interest group representation, and open access to meetings and information. This signifies the embrace of a law that has created barriers (both psychologically and procedurally) to collaboration within other agencies.³⁸ The legal framework for public participation in public lands and resource management has been well chronicled by legal scholars elsewhere.³⁹ However, several points are worth noting that lay the groundwork for understanding the growth of collaborative conservation within federal land management, understanding the instituting of collaborative processes of conflict resolution in agency decision making, and framing the space within which the BLM RACs operate and make decisions.

First Principles: The APA and NEPA

The Administrative Procedures Act of 1946⁴⁰ sets rules for federal agencies to inform the public of proposed rulemaking and provided the public with opportunities to participate in the rulemaking process. The National Environmental Policy Act (42 USC §

³⁸ See generally: Beirle and Long (1999) *infra note 68*.

³⁹ See generally: Van De Wetering (2006); Thomas Dietz and Paul C. Stern. *Public Participation in Environmental Decision Making*. National Academies Press, Washington D.C. (2008): 36-52.; and Robert B. Kreiter. "Public Lands and Law Reform: Putting Theory, Policy, and Practice in Perspective." *Utah Law Review*. No. 4 (2005): 1127-1226.

⁴⁰ Pub. L. 79-404 as codified as amended in 5 USC § 511-599

4321-4347) requires federal agencies to analyze the environmental and cultural effects of “major actions” affecting the resources they manage. Together the APA and NEPA create a platform, “...for members of the public to make their informed judgments known to agencies before decisions were made and thus potentially to have an influence on the decisions...”⁴¹ Sara Bates Van De Wetering calls these the *first principles* for public participation in federal public land and natural resource management. These requirements are, “meant to ensure that better decisions are made, with complete information and without hidden influences or agendas.”⁴²

The Planning Acts: NFMA and FLPMA

The National Forest Management Act (NFMA) and the Federal Land Policy and Management Act (FLPMA), as they pertain to the Forest Service and the BLM respectively, both have specific requirements for including the public in land use and resource management planning. NFMA, requires the National Forest Service to engage in long-range resource planning by directing the Secretary of Agriculture, “...to develop, maintain, and revise land and resource management plans with substantial public involvement...”⁴³ FLPMA is the BLMs organic act, and it outlines the multiple-use mandate, the requirements for comprehensive land use planning within the agency, requirements for including the public in planning and decision making, and establishing advisory committees.⁴⁴

To fulfill the management plan requirements under NFMA, the Secretary of Agriculture is directed to, “promulgate regulations...that set out the process for the development and revision of the land management plans...”⁴⁵ These regulations are handed

⁴¹ Dietz and Stern (2008): 38.

⁴² Van De Wetering (2006): 8.

⁴³ Ibid; pg. 11

⁴⁴ See generally: U.S. Department of the Interior, Bureau of Land Management and Office of the Solicitor (editors). The Federal Land Policy and Management Act, as amended. U.S. Department of the Interior, Bureau of Land Management Office of Public Affairs, Washington, D.C. (2001): 69 pgs.

⁴⁵ National Forest Management Act of 1976. Pub. L. 94-588 as amended by 16 USC §1600 (note).

down through the National Forest Planning Rule and codified in the regulations governing Forest Service planning.⁴⁶ Since 2000, the several attempts to revise the Planning Rule have been frustrated by legal challenges, and met considerable difficulty in implementing regulations to guide planning procedures across the agency.⁴⁷ In 2012, after a substantial public involvement process to develop new planning regulations, and, in part to focus on, “...collaboration, science, and sustainability...”⁴⁸ the Forest Service finally published the 2012 Planning Rule. The new rule states, “The responsible official shall engage the public...early and throughout the planning process... using collaborative processes where feasible and appropriate.”⁴⁹

This emphasis on using collaborative processes is further reinforced in the Forest Service Land Management Planning Handbook. The Handbook provides specific direction and procedural guidance to line officers and interdisciplinary team members for implementing the 2012 planning rule and carrying out the regulations within 36 CFR § 219.⁵⁰ The Handbook first defines collaboration and collaborative process collectively as:

A structured manner in which a collection of people, with diverse interests share knowledge, ideas, and resources, while working together in an inclusive and cooperative manner toward a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public engagement described in the Council on Environmental Quality's publication of October, 2007: Collaboration in NEPA— A Handbook for NEPA Practitioners.⁵¹

The Handbook continues in Chapter 40 by discussing the principles and spectrum of public participation to inform the development of the plan components. The spectrum identified

⁴⁶ 36 CFR § 219

⁴⁷ See generally: US Forest Service. *The History of Forest Planning*. Accessed on 9/13/15; available at: <http://www.fs.usda.gov/main/planningrule/history>

⁴⁸ USDA Forest Service. *New 2012 Planning Rule: Rethinking Forest Regulations*. Missoula, MT; slide show presentation dated July, 2013: Pg. 9.

⁴⁹ 36 CFR § 219.4(1)

⁵⁰ USDA Forest Service. *FSH 1909.12 – Land Management Planning Handbook*. Available at: <http://www.fs.usda.gov/detail/planningrule/home/?cid=stelprd3828310>

⁵¹ Ibid; Zero Code: pg. 5

in the handbook ranges at the lowest level from simply informing the public to fully collaborating with the public at the highest level. Collaboration in this context is taken to mean directly engaging the public “...to exchange information with each other and work together on one or more issues during the planning process. Identify where there is agreement and disagreement.”⁵² According to the handbook, collaboration can utilize a range of tools from mediated and facilitated discussions to establishing FACA groups and partnerships.⁵³ The handbook focuses on how to develop a public participation strategy but leaves discretion to the responsible official to, “determine the scope and scale of opportunities for public participation, balancing available resources and schedule constraints with public engagement needs.”⁵⁴ It further states, “There is no prescribed format for a public participation strategy, and the strategy can and is likely to change to accommodate evolving circumstances.”⁵⁵

Indeed, the discretion provided to individual forests in meeting the requirements for public participation outlined in the 2012 Planning Rule is intended to allow the responsible officials the flexibility to adapt to local needs and interests. However, the failure to articulate clear guidelines and standards for how and when to meet the requirements for public participation by the individual forests is already creating some confusion and tension between forest managers and interest groups in the planning process. In fact, a federal advisory committee chartered in 2012, and tasked with providing national level advice to the Forest Service on implementing the 2012 Planning Rule, made several recommendations to the Forest Service to clarify when and how collaboration and

⁵² Ibid; Ch. 40 § 41

⁵³ Ibid; Ch. 40 § 43.2

⁵⁴ Ibid; Ch. 40 § 42

⁵⁵ Ibid

public participation should occur in the planning process.⁵⁶ Consequently, due in part to this lack of clarity, some early-adopter forests are frontloading their assessment phases with substantial opportunities for collaboration and then having to rush through the development of the plan components to meet the established deadlines, while others struggle with staff capacity to effectively engage the public when and where it's most needed.⁵⁷

In the case of the BLM, FLPMA similarly states, "The Secretary shall, *with public involvement* and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands."⁵⁸ The public's right to involvement in activities that affect lands managed by the BLM is further emphasized later, "The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands."⁵⁹ However, in addition to the general public involvement requirements, the BLM is also directed to establish advisory councils to provide advice directly to the Secretary of the Interior on land use and management, "The Secretary shall establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various

⁵⁶ Planning Rule Advisory Committee. *Markup of Directives with Committee Recommendations – FINAL*. Dated: November 15, 2013. Accessed on 10/2/14 from:

<http://www.fs.usda.gov/detail/planningrule/committee/?cid=stelprdb5394840>

⁵⁷ Citation: *Public Participation: Lessons Learned from Implementing the 2012 Planning Rule*. Unpublished Study Conducted by University of Montana's Natural Resource Conflict Resolution Class, Fall 2014. On file with the Author.

⁵⁸ U.S. Department of the Interior, Bureau of Land Management and Office of the Solicitor (2001): 4. [Emphasis mine.]

⁵⁹ *Ibid*: 6.

major citizens' interests concerning the problems relating to land use planning or the management of the public lands..."⁶⁰

The BLM had a history of citizen advisory boards prior to FLPMA, but they were called Grazing Advisory Boards and comprised almost exclusively of local grazing permittees. The Grazing Advisory Boards (GABs) were criticized for having an undue influence over the agency decisions and a myopic view of range management. They were accused of elevating their economic interests over the health and ecologic conditions of the range. Under FLPMA, the Grazing Advisory Boards were severely constrained and a more evolved version of Citizen Advisory Boards (CABs) were established to "focus on the full array of ecosystem and multiple-use issues associated with BLM administered public lands..."⁶¹ The RACs, implemented under Bruce Babbitt's rangeland reforms in the mid-1990's, combined the CABs and the GABs into the model used today which is structured to coincide with State, BLM District or ecoregion boundaries⁶² and to consist of balanced and diverse membership representing three broad categories: 1) grazing permittees and the resource industries; 2) environmental, cultural and historic interests; and 3) elected officials, Native American tribes, and academics.⁶³ This period of reform beginning with the enactment of FLPMA also marked a shift in the BLM's management focus to, in part, "Accelerate restoration and improvement of public rangelands to proper functioning condition."⁶⁴

NFMA also authorizes the Secretary of Agriculture to "...establish and consult advisory boards as *he deems necessary* to secure full information and advice on the

⁶⁰ Ibid; pg. 26

⁶¹ Department of Interior, Bureau of Land Management. *Rangeland Reform '94: Final Environmental Impact Statement*. Bureau of Land Management. Washington D.C. (1994): 18.

⁶² 43 CFR § 1784.6-2

⁶³ 43 CFR § 1784.6-1(c)

⁶⁴ *Rangeland Reform '94*: 4.

execution of his responsibilities.”⁶⁵ Interestingly, such discretion was not granted the Secretary of the Interior and begs the question why? Regardless of the motivation, requiring the BLM to establish the RACs and leaving discretion to the Forest Service presents an interesting opportunity to investigate the collaborative processes for planning and decision making used within each agency.

The Federal Advisory Committee Act of 1972

In some circumstances collaborative groups either choose to or are required to file a formal charter under the Federal Advisory Committee Act. The Federal Advisory Committee Act (FACA) of 1970 was enacted to ensure that groups who provide advice directly to federal agencies are fairly balanced, and decisions are made publicly and free of undue influence of special interests.⁶⁶ Generally FACA applies when all of three conditions are met: “(1) the federal agency establishes the group...or exerts some level of management control over the group, (2) the group includes...individuals who are not federal employees or elected officials..., and (3) the product of the collaboration is group or collective advice to the federal agency.”⁶⁷ FACA imposes procedural hurdles on a collaborative group to ensure that the public is given notice of meetings and activities, that meetings are held in an open, publicly accessible forum, and the goals and expectations of the group are clearly defined.⁶⁸

It has long been suggested that FACA’s procedural hurdles create a substantial barrier to collaborative conservation. As William Butler explains, “the lack of clarity of the procedural requirements of FACA...may deter collaboration as much as ensure high-quality

⁶⁵ Pub. L. 94-588 § 14(b)

⁶⁶ Van De Wetering (2006): 13.

⁶⁷ Council On Environmental Quality (CEQ). *Collaboration in NEPA: A handbook for NEPA practitioners*. Council of Environmental Quality, Washington, DC. (2007): 91.

⁶⁸ *Ibid*: 90.

processes.”⁶⁹ This deterrent has resulted from a variety of factors including the lack of clarity around the procedural requirements of the act, when FACA applies to self-organized collaborative groups, and agencies feeling discouraged from collaborating or even consulting with the public based on the threat of a FACA-based lawsuit.⁷⁰

Regardless of whether a collaborative group is chartered as a FACA committee or not, Federal agencies walk a fine line between using the advice or recommendations provided by the group, and abdicating their authority to make the final decisions. In a few notable cases of “constitutional sub-delegation,” land management agencies have been challenged for relinquishing their decision making authority to non-government entities.⁷¹ The importance of this is that in collaborating with groups of stakeholders on land use or resource management issues, the federal agency must retain and make the ultimate decision or they are vulnerable to legal challenge.⁷² In terms of evaluating the success of the BLM RACs in this study, the agency’s obligation to retain their decision making authority is one of the main reasons for investigating participant satisfaction with the process rather than on-the-ground actions that result.

The rise of place-based Collaboration

The field of environmental conflict resolution emerged as conservation advocates, academics, policy makers, and industry proponents became increasingly frustrated with polarization, conflict and stalemate in natural resource management issues. Stakeholders

⁶⁹ William Hale Butler. “Collaboration at Arms Length: Navigating Agency Engagement in Landscape-Scale Ecological Restoration Collaboratives.” *Journal of Forestry*. Vol. 111, No. 6 (2013): 395-413.

⁷⁰ Thomas C. Beirle and Rebecca J. Long. “Chilling Collaboration: The Federal Advisory Committee Act and Stakeholder Involvement in Environmental Decisionmaking.” *Environmental Law Reporter*. Vol. 29 (July, 1999): 3.

⁷¹See generally: *NPCA v. Stanton*; as mentioned in Van De Wetering (2006): 17. According to Van De Wetering, in *NPCA v. Stanton*, the National Park Service was challenged for giving the Niobrara Scenic River Advisory Council full decision making authority. The judge ruled the council superseded its authority granted by Congress, and today, she says, “the council continues in its advisory role, but the NPS retains final decision making authority.”

⁷² *Ibid*: 16.

often turned to alternative methods of resolving disputes between entrenched and opposing interests such as mediated negotiations and collaboration. Community or place-based collaboration has its roots in Van De Wetering's *First Principles*, the landmark environmental laws of the 1960's and 70's. Community-based collaboration evolved within the framework of these laws as one tool in the box of alternative decision making models that has gained considerable traction over the past twenty or thirty years because of its initial success in resolving conflicts between timber interests and environmentalists in the mid-1990s. Collaboration has been called many things over the years, but one definition commonly used in the literature was first articulated by Barbara Gray in 1985, "The pooling of appreciations and/or tangible resources, e.g., information, money, labor, etc., by two or more stakeholders to solve a set of problems which neither can solve individually."⁷³

As early forms collaborative conservation found success in resolving conflicts and producing working agreements to land management problems, they captured the attention of agency administrators, policy makers and executives at the local, state and federal level. Early case studies such as the Quincy Library Group, the Applegate Partnership, and the Niobrara Scenic River Advisory Council (among many others) received considerable scholarly attention and further justified the nascent movement.⁷⁴ Distinct models of collaborative conservation evolved, have been refined, and scholars have articulated various typologies to help understand and study the various models. Cestero developed a simple typology distinguishing between place-based and policy-based groups.⁷⁵ It

⁷³ Gray (1985): p. 912

⁷⁴ See generally: Cestero (1999); Moote, McClaran, and Chickering (1997); Wondolleck and Yeffe (2000); McKinney and Harmon (2004) for case studies on early experimental collaborative processes of natural resource management and governance.

⁷⁵ Cestero (1999).

separates place-based groups that focus on a particular geography from policy-based groups that address problems of regional or national significance.⁷⁶

Margerum builds upon several typologies, drawing largely on institutional analysis literature to argue that collaboratives exist on an Action-Organizational-Policy spectrum.⁷⁷ The key functional differences between points on this spectrum are found in membership make-up, the management arrangement for implementation, and approaches to implementing change.⁷⁸ Operational or action-oriented groups tend to consist of stakeholders who represent themselves and advocate for their own interests from a more localized perspective; focus on on-the-ground activities such as monitoring, education, and restoration; and see the same actors both making and implementing agreements.⁷⁹ Organizational and Policy-level collaboratives tend to be made up of individuals representing interest groups or organizations such as industry associations or non-governmental organizations, agency representatives and elected officials.⁸⁰ At the implementation phase, a Policy-level collaborative formulates policies and programs to set up others to carry out the on-the-ground actions while an Organizational-level collaborative will vary its implementation process depending on which end of the spectrum it most closely aligns.⁸¹

Pros and Cons of Collaborative Conservation

Advocates of collaborative approaches to natural resource management argue several major benefits. For example, Wondolleck touts four major benefits of collaboration that work to: 1) build understanding and shared learning; 2) create a mechanism for

⁷⁶ Barb Cestero. *Beyond the Hundredth Meeting: A Field Guide to Collaborative Conservation*. Sonoran Institute. (1999): 9.

⁷⁷ Richard D. Margerum. "A Typology of Collaboration Efforts in Environmental Management." *Environmental Management*. Vol. 41 (2008): 493.

⁷⁸ Ibid: 493.

⁷⁹ Ibid: 488-494

⁸⁰ Ibid: 493-494

⁸¹ Ibid: 494

effective decision making; 3) get work done; and 4) develop capacity to deal with future challenges.⁸² Scholars like Kenney⁸³, Dietz and Stern⁸⁴, and McKinney, Field and Bates⁸⁵ concur, extolling the benefits of experimenting in collaborative processes to formulate more creative, innovative decision making models. In addition, proponents also advocate that place-based collaboration can overcome entrenched opposition, better account for localized knowledge and cultural relationships specific to the landscape, and increase buy-in and durability of the decisions.⁸⁶

On the other side, skeptics argue that place-based collaboration turns over an inordinate amount of control over what are inherently national interests and resources to a small, localized group of individuals.⁸⁷ Critics believe the current system of decision making works as designed, that litigation is an inherent part of the design, and that collaborative groups are merely attempting to work around the existing statutory and regulatory frameworks.⁸⁸ Others insist that the voluntary nature of collaboration has inherent problems with representation of interests, and argue that leaving decisions about national lands to an *ad hoc* group of local citizens puts too much power into small, localized groups of interests.⁸⁹ In his book *Environmental Communication and the Public Sphere*, Robert Cox succinctly outlines seven common critiques of place-based collaboration from his review of

⁸² Julia Wondolleck and Stephen Yeffe. *Making Collaboration Work: Lessons from innovation in natural resource management*. Washington, D.C. Island Press (2000): 18-19.

⁸³ Douglas J. Kenney. *Arguing About Consensus: Examining the Case Against Western Watershed Groups and Other Collaborative Groups Active in Natural Resources Management*. Natural Resources Law Center,

University of Colorado School of Law. (2000): 7pgs.

⁸⁴ Dietz and Stern (2008).

⁸⁵ Matthew McKinney, Patrick Field and Sarah Bates. "Responding to Streams of Land Use Disputes: A Systems Approach." *Planning & Environmental Law*; Vol. 60, No. 4 (2008): 3-10.

⁸⁶ Kenney (2000)

⁸⁷ Michael McCloskey. "The Skeptic: Collaboration Has its Limits." *High Country News*. May 13, 1996: 2

⁸⁸ Ibid; 2

⁸⁹ George C. Coggins. "Of Californicators, Quislings and Crazies: Some Perils of Devolved Collaboration." *Across the Great Divide: Explorations of Collaborative Conservation and the American West*. Island Press (2001): 163-171.

the literature: 1) Stakeholders may be unrepresentative of wider public; 2) may encourage exceptionalism or a compromise of national standards; 3) power inequalities may lead to co-optation; 4) pressure for consensus may lead to the lowest common denominator; 5) consensus tends to delegitimize conflict and advocacy; 6) groups may lack authority to implement their decisions; and 7) irreconcilable values may hinder agreement.⁹⁰

Despite these criticisms, Wondolleck explains, collaborative processes for environmental conflict resolution have, “expanded from largely ad hoc application in site- or issue-specific situations to now being embedded in agency programs and procedures.”⁹¹ Land management agencies attempting to incorporate a more adaptive style of management and collaboratively plan activities at the watershed or ecosystem scale, may require collaboration and increased public involvement across interest groups, agencies, and political jurisdictions to accomplish their goals.⁹² Some scholars argue that planning at this scale inherently affects and involves many different agencies (federal, state, and local), private land holders, and various interest groups who all have differing goals, objectives and methods for achievement. “For collaboration to occur in such situations,” Wondolleck says, “[environmental conflict resolution] needs to be nudged, or even required. Sometimes reluctant or skeptical parties must be compelled to give a process a chance.”⁹³

Moving Towards Institutionalizing Collaboration

One of the vital tenets of successful collaboration is that participants come to the table voluntarily, with full knowledge and clarity about their options for seeing their interests met. Wondolleck outlines two factors emphasizing the importance of this

⁹⁰ Robert Cox. “Managing Conflict: Collaboration and Environmental Disputes.” *Environmental Communication and the Public Sphere*. Los Angeles: Sage Publications (2013): 111-139

⁹¹ Julia M. Wondolleck. “A Crack in the Foundation? Revisiting ECR’s Voluntary Tenet.” *Conflict Resolution Quarterly*. Vol. 27, No. 3, (2010): 323

⁹² Ibid.

⁹³ Ibid: 324

voluntary tenet in her review of the literature: one involving choice, and the other involving fairness. Choice, she says, “implies consideration of alternatives and weighing of consequences; it implies an explicit assessment of the potentials and short-comings of varying alternatives...A deliberate decision to collaborate suggests that a party understands the collaborative process as well as their best alternative to a negotiated agreement (BATNA).”⁹⁴ Additionally, this choice also implies fairness: “Voluntary engagement bestows a sense of fairness and consequently legitimacy, instilling a level of respect for the potential of the process and contributing to a participant’s commitment to the process and good faith involvement in it.”⁹⁵ The voluntary nature of *ad hoc* collaboration becomes a tension around which mandated forms must navigate in order to be recognized as a legitimate and valid process for decision making, and worthy of the time commitment required of participants relative to other opportunities for seeing interests and values met.

Forms of mandated Alternative Dispute Resolution (ADR) began to emerge in state and federal laws, partially in response to the success of grassroots attempts at collaboration in which, as Daniel Kemmis puts it, “...old enemies learn to solve hard problems together.”⁹⁶ Examples such as the Negotiated Rulemaking Act of 1990,⁹⁷ section 164(e) of the Clean Air Act,⁹⁸ and Montana’s use of water dispute mediators⁹⁹ all constitute the beginning of a new era of collaborative governance in natural resource management. Collaborative governance is defined by Ansell and Gash as a “...governing arrangement where one or more public agencies directly engage non-state stakeholders in a collective decision-making process that is formal, consensus oriented, and deliberative and that aims to make or implement public

⁹⁴ Ibid: 327

⁹⁵ Ibid: 330

⁹⁶ Daniel Kemmis. *This Sovereign Land: A New Vision for Governing the West*. Island Press, Washington D.C. (2001): 119

⁹⁷ The Negotiated Rulemaking Act of 1990. Pub. L. 101-648.

⁹⁸ e.g.: Van de Wetering and McKinney (2006).

⁹⁹ See: Montana Code Annotated § 85-5-110.

policy or manage programs or assets.”¹⁰⁰ These laws signify the first attempts by the Federal government to establish less adversarial approaches to planning and decision making. However, these early laws have drawn criticism for eliminating the voluntary tenet¹⁰¹, and collaboration, whether grassroots or institutional, has been accused of impeding or contravening national laws, and circumventing what legal scholar George Coggins describes as the, “...legally-ordained processes of decision making.”¹⁰²

More recent federal laws and regulations such as the Secure Rural Schools and Community Self Determination Act of 2000,¹⁰³ the Collaborative Forest Landscape Restoration Act of 2009,¹⁰⁴ and the U.S. Forest Service’s 2012 Planning Rule¹⁰⁵ have created requirements or incentives for disparate interests to come together around public lands issues to formulate plans or make recommendations on project alternatives prior to formal decisions by agency administrators. This next generation of collaboration laws operates within the framework established by the National Environmental Protection Act (NEPA), the Administrative Procedures Act (APA), the Federal Advisory Committee Act (FACA) and the other environmental and procedural laws that govern natural resource management, but also allow for citizens to have “enhanced” involvement in and influence over how lands and resources are managed.

Federal laws, exemplified by those discussed above, authorize policies and programs to be implemented by agencies requiring some form of collaboration to produce management plans, make decisions, or establish regulations. These policy-mandates for

¹⁰⁰ Chris Ansell and Alison Gash. "Collaborative Governance in Theory and Practice." *Journal of Public Administration Research and Theory*. Vol. 18, No. 4 (2008):543-571

¹⁰¹ Jonathan Brock. "Mandated Mediation, A Contradiction in Terms: Lessons from Recent Attempts to Institutionalize Alternative Dispute Resolution Practices." *Villanova Environmental Law Journal*. Vol. 2 (1991): 57.

¹⁰²George C. Coggins (2001): 164

¹⁰³ Van de Wetering and McKinney (2006): 44

¹⁰⁴ Schultz, Jedd and Beam (2012).

¹⁰⁵ See generally: United States Forest Service. *Forest Service Handbook 1909.12*

collaboration have the potential to create a tension with the long standing premise of voluntary participation by limiting opportunities for other forms of public involvement, and circumventing traditional decision making processes. As the Forest Service is currently promulgating collaboration and enhanced public participation through the 2012 planning rule, it may prove helpful to look at how other agencies have already integrated collaborative processes into their planning and decision making and how well those processes are working.

Dispute Resolution Process Design Theory and Evaluating Success

Collaborative conservation utilizes theories from a variety of disciplines. Scholars Conley and Moote succinctly summarize the theoretical and practical makeup of this diverse and growing field in their work *Collaborative Conservation in Theory and Practice*.¹⁰⁶ Chief among the disciplines drawn from are Social and Political Science, Public Administration and International Development, and Alternative Dispute Resolution.¹⁰⁷ Scholars often discuss the social and political capital that is created from finding solutions to problems collaboratively and at the local level.¹⁰⁸ Others discuss the democratic implications of collaborative planning and management,¹⁰⁹ while still others work to collect, define and refine principles and best practices that contribute to developing successful models of alternative dispute resolution, consensus building, and collaborative governance.¹¹⁰ This diversity of disciplines, theories, scholarship, and approaches to problem solving, coupled

¹⁰⁶ Alexander Conley and Ann Moote. *Collaborative Conservation in Theory and Practice*. Udall Center for Studies in Public Policy, the University of Arizona. Tuscon. (2001)

¹⁰⁷: Ibid; 3

¹⁰⁸ See Generally: Kemmis (1990); Eric K. Austin. "The Social Bond and Place: A Study of How the Bureau of Land Management Contributes to Civil Society." *Administrative Theory & Praxis*. Vol. 24, No. 2 (2002): 355-362; and Charles F. Wilkinson. "Law and the American West: The Search for an Ethic of Place." *University of Colorado Law Review*. Vol. 59, No. 3 (1988): 401-425.

¹⁰⁹ See Generally: Ansell and Gash(2007); Leighninger (2006)

¹¹⁰ See Generally: William L. Ury, Jeanne M. Brett and Stephen B. Goldberg. "Designing an Effective Dispute Resolution System." In *Getting Disputes Resolved*. Cambridge: PON Books. (1993): 41-83.; Selin and Chavez (1995); and McKinney, Field and Bates, (2008).

with the unique circumstances that constitute each collaborative process both make it difficult to apply general theories and entices lively debate among practitioners. However, several theoretical principles for designing successful processes and methods for evaluating success have been distilled from the work of those studying practical approaches to collaborative conservation that are applicable to this study.

Conley and Moote point out that participatory democracy in the international development arena emphasizes local participation in project development and common resource management. They stress four basic tenets borrowed from this discipline that can be applied to collaborative conservation: “1) that everyone who might be affected by or have an interest in the plan be involved; 2) that all interests be encouraged to discuss their needs, concerns, and values; 3) that the public be involved continuously through all stages of planning and decision making; and 4) that decision making authority be shared among all participants.”¹¹¹

Ansell and Gash expand upon this idea of democratic governance and stress six defining principles to guide collaborative process development: “1) the forum is initiated by public agencies or institutions, 2) participants in the forum include non-state actors, 3) participants engage directly in decision making and are not merely ‘consulted’ by public agencies, 4) the forum is formally organized and meets collectively, 5) the forum aims to make decisions by consensus (even if consensus is not achieved in practice), and 6) the focus of collaboration is on public policy or public management.”¹¹²

Including local perspectives in public resource planning and management is a major principle underpinning collaborative conservation. In his work *Community and the Politics*

¹¹¹ Conley and Moote, (2001): 5.

¹¹² Ansell and Gash (2007): 544-545.

of Place, Daniel Kemmis discusses the need for re-vitalizing civic culture and the community strength that can come from organizing our politics around places of cultural significance;

...what holds people together long enough to discover their power as citizens is their common inhabiting of a place. No matter how diverse and complex the patterns of livelihood may be that arise within the...system, no matter how many perspectives from which people view [it], no matter how diversely they value it, it is, finally, one and the same...for everyone...if we all want to stay here...then we have to learn, somehow, to live together.¹¹³

Other scholars discuss the merits of bioregionalism and the social capital created from tackling problems at the local level. The distinguished law professor Charles Wilkinson offers:

We will always have disputes over land, water, wildlife, minerals, and power. Such raspings are inevitable and ultimately healthy in a colorful, dynamic, and individualistic society. Nevertheless, the dissenting parties often leave angry, determined to undercut the temporary solution bred of combativeness. Perhaps worse, the process tears at our sense of community; it leaves us more a loose collection of fractious subgroups than a coherent society with common hopes and dreams. The overarching concern, therefore, is not to deny that conflict will occur, but rather to acknowledge an ethic that sets standards and, as importantly, provides a method for dealing with disputes. Disputants need to recognize that they exist within a community and that consensus is the preferred method of resolution.¹¹⁴

Designing a Collaborative Process

Designing collaborative processes to build consensus and offer a framework for successful conflict resolution is an inherently complex endeavor. Conflict resolution processes must anticipate and be able to respond to the myriad unique and interconnected social, ecological and institutional factors that simultaneously drive the conflict and frame the range of possible solutions. The legal principle of “multiple-use, sustained-yield” defines the range of resource considerations and social interests that must be satisfied through land

¹¹³ Kemmis (1990): 117.

¹¹⁴ Wilkinson, (1988): 409.

use management within the BLM and Forest Service. However, the agencies are ultimately responsible for weighing and balancing all the factors and interests and making the final decisions. Finally, although the decisions that guide the management of local forests or rangelands most directly impact the social, economic and ecologic conditions of local communities (broadly defined to include all communities of life), the effect of management activities on federal public lands are of national significance, and are of equal concern to all citizens whether they live in a small ranching community in Wyoming or in New York City. How then, does a dispute resolution system account for and respond to this complexity?

Best practices of dispute resolution and collaborative conflict resolution systems have been discussed through scholarly literature emerging out of the disciplines of natural resource management, public administration, and the political and social sciences. Regardless of the discipline, much of the scholarship agrees on some general principles to help guide the design process. Perhaps the best recognized are discussed by Ury, Brett and Goldberg in *Getting Disputes Resolved*, one of the seminal works on the topic. They offer six principles to guide designing permanent systems of dispute resolution to help parties avoid the costs of litigation. The principles are: 1) Put the focus on the interests, 2) Build in "loop-backs" to negotiation, 3) Provide low-cost rights and power backups, 4) Build in consultation before, feedback after, 5) Arrange procedures in a low-to-high-cost sequence, 6) Provide the necessary motivation, skills, and resources.¹¹⁵

According to McKinney, Field and Bates, designing systems using the above framework can lead to improved decision making: "[b]y combining opportunities for public deliberation, collaborative problem solving and multiparty dispute resolution into the land use decision-making process, planners, decision makers, and others can create a more

¹¹⁵ Ury, Brett, and Goldberg (1993): 42.

responsive system of governance, which in turn will likely improve land use decisions.”¹¹⁶ Indeed, as agencies seek to improve their strategies for public participation in planning and decision making, as exemplified by the Forest Service’s 2012 Planning Rule and the host of other laws and policies aimed at improving the public-agency relationship, utilizing a general framework that builds consensus, provides durability over course of time, and is responsive to local ecological, social and economic conditions seems to provide a good model from which to proceed.

Selin and Chavez are two scholars who have written on collaborative process design from an environmental management perspective. They insist that collaborative approaches to decision making are an increasing trend that views the management agency as but one member of a set of stakeholders joined together by a common resource problem.¹¹⁷ They suggest collaboration is a process that results from a variety of antecedent conditions and proceeds sequentially through several phases: problem-setting, direction-setting, structuring, and outcomes. Antecedent conditions may include things such as an environmental crisis, a network of interests sharing a common concern, or a legal mandate.¹¹⁸ In the problem-setting phase, the issue is given an identity to enable discussion and ultimately action. They insist that stakeholders will be committed to the process if they believe the benefits of participation will outweigh the costs.¹¹⁹ In the direction-setting phase, stakeholders begin to develop a common purpose as they engage in shared learning to set goals, develop an agenda, and set ground rules. The Structuring phase, “...involves institutionalizing the shared meaning of the group and devising a regulatory framework to

¹¹⁶ Matthew McKinney, Patrick Field & Sarah Bates. Responding to Streams of Land Use Disputes: A Systems Approach. *Planning & Environmental Law*; Vol. 60, No.4 (2008): 3

¹¹⁷ Selin and Chavez (1995): 190.

¹¹⁸ Ibid: 191.

¹¹⁹ Ibid: 192.

guide future collective action..."¹²⁰ while the outcome phase is where, "...stakeholders implement the programmatic thrusts of their collective agreements."¹²¹ Finally, Selin and Chavez identify four types of collaborative design: 1) *appreciative planning* which is characterized by exchanging information to develop a shared vision of resource use; 2) *partnerships* whereby stakeholders help to advance the vision through direct action; 3) *dialogues* to resolve conflict by searching for common ground without the pressure of developing binding agreements, and 4) *negotiated settlements* which, "resolve conflicts by producing a binding agreement ratified by all participating stakeholders."¹²² These four designs will be addressed later in chapter five.

Matthew Leighninger offers a simplified model in his work on democratic governance in the United States, *The Next Form of Democracy: How Expert Rule Is Giving Way to Shared Governance and Why Politics Will Never Be the Same*.¹²³ Leighninger defines democratic governance as, "the art of governing communities in participatory, deliberative, and collaborative ways."¹²⁴ Within his model, Leighninger suggests two forms of collaborative governance often emerge: temporary organizing efforts, and permanent neighborhood structures.¹²⁵ For the purposes of this study, the RACs closely resemble permanent neighborhood structures. Here, the notion of the neighborhood is expanded geographically to encompass a district or region of BLM administered public lands. Leighninger suggests that the best examples of each form, whether temporary or permanent, employ four basic principles for success:

First, they recruit people by reaching out through the various groups and organizations to which they belong, in order to assemble a large and diverse 'critical

¹²⁰ *ibid*

¹²¹ *Ibid*: 193.

¹²² *Ibid*.

¹²³ Leighninger (2006)

¹²⁴ *Ibid*: 3

¹²⁵ *ibid*

mass' of citizens. Second, they involve those citizens in a combination of small and large- group meetings: structured, facilitated small groups for informed, deliberative dialogue, and large forums for amplifying shared conclusions and moving from talk to action. Third, they give the participants in these meetings the opportunity to compare values and experiences, and to consider a range of views and policy options. Finally they effect change in a number of ways: by applying citizen input to policy and planning decisions, by encouraging change within organizations and institutions, by creating teams to work on particular action ideas, by inspiring and connecting individual volunteers or all of the above.¹²⁶

Leighninger's framework incorporates Ury, Brett and Goldberg's principles of focusing on interests, developing processes for consultation and feedback, encouraging negotiation, arranging procedures in a low to high cost sequence, and providing motivation, skills and resources. In Ury, Brett and Goldberg's model, the principle of "providing low-cost rights and power back-ups", refers to processes of professional arbitration that could, "serve as a backup should interests-based negotiation fail to resolve the dispute."¹²⁷ Such procedures do not apply in the case of the RAC and therefore are of less concern for the purposes of this study. The discussion of the RAC model in chapter five will, for the purpose of simplicity, focus largely on Leighninger's four principles for success.

Evaluating the Collaborative Process

An important thread in the conversation about instituting collaborative conservation more broadly is how to define and evaluate success. Many scholars have constructed frameworks for evaluating the effectiveness and success of collaborative processes in the field (notably: Innes and Booher, Leach, and McKinney and Field).¹²⁸

¹²⁶ *ibid*

¹²⁷ Ury, Brett and Goldberg (1993): 56.

¹²⁸ See generally: Judith E. Innes and David E. Booher. "Consensus Building and Complex Adaptive Systems." *Journal of the American Planning Association*. Vol. 65, No. 4 (1999): 412-423.; William D. Leach. *Is devolution democratic? Assessing collaborative environmental management*. Center for Collaborative Policy, California State University, Sacramento. (2004); Matthew McKinney and Patrick Field. "Evaluating Community-Based Collaboration on Federal Lands and Resources." *Society & Natural Resources*. Vol. 21, No. 5 (2008): 419-429.

Success cannot be pinpointed to any one particular outcome or criteria because the complex nature of collaborative processes can lead to success on a variety of different levels.

Innes and Booher, for example, argue the consequences of successful collaboration emerge in three categorical ways: 1) high-quality agreements that are durable, innovative, and account for local knowledge; 2) tangible products such as formal agreements, agreed upon data and analysis, and implementable projects; and 3) intangible products such as improved social, intellectual and political capital.¹²⁹ Their work is grounded in the fields of complexity science and communicative rationality. Complexity science, they explain, values the intangible effects of shared learning and trust building that accompanies a consensus building exercise. Communicative rationality is a structure for discourse that results in emancipatory knowledge, “by engaging all those with differing interests around an issue or topic.”¹³⁰ They argue that this knowledge creation is critical for overcoming the institutional and societal barriers that drive conflict and serves as an ideal for developing a collaborative model. Much like scientific rationality, they say, “communicative rationality represents an ideal...which is never actually achieved in practice, though it is a goal or ideal against which to judge research or communicative practice.”¹³¹

Leach is most concerned with the democratic implications of collaborative resource management and focuses on six qualities that are essential for success: inclusiveness, representativeness, procedural fairness, lawfulness, deliberativeness, and empowerment. His substantial work defines each of these six criteria and applies them to critically analyzing watershed groups in California and Washington. In so doing, he establishes a

¹²⁹ Innes and Booher (1999): 413-415

¹³⁰ Ibid: 418

¹³¹ Ibid

normative framework of evaluation that he argues can be applied to virtually any instance of collaborative public management.¹³²

Similarly, McKinney and Field (2008) contend collaboration is, "...rapidly becoming one of the dominant ideas in natural resources policy and politics."¹³³ They developed a *Participant Satisfaction Scorecard* based on their review of the commonly accepted criteria for measuring success. The scorecard is used to conduct a survey nearly 50 community-based groups, including several BLM RACs. This scorecard contains a series of questions that address participants' motivation for collaborating, as well as the tangible and intangible products identified by Innes and Booher. Finally, the scorecard poses a series of questions addressing potential process improvements on a Likert scale in terms of working relationships, process criteria and outcomes that was partially based on the democratic notions of collaboration framed by Leach.¹³⁴

Additionally, Conley and Moote explore a range of evaluation approaches and articulate that evaluation methods must be carefully designed to match the effort being evaluated. They offer that comparing multiple efforts can show variations in process and context that result in different outcomes, which is especially important to keep in mind when using lessons from one process to help inform how to structure future processes.¹³⁵ Ultimately, they argue that effective evaluation can, among other things, "assess and refine efforts to institutionalize a movement that has developed largely at the grassroots level."¹³⁶

Williams and Ellefson, two scholars who have studied collaborative forestry partnerships across public and private lands, define success as, "a group able to attract and

¹³² Leach (2004); pg. 100

¹³³ McKinney and Field (2008); pg. 419

¹³⁴ Ibid, pg. 421-427,

¹³⁵ Alexander Conley & Margaret A. Moote. "Evaluating Collaborative Natural Resource Management." *Society & Natural Resources: An International Journal*. Vol.16 ,No. 5 (2003): 378.

¹³⁶ Ibid: 373.

keep individuals and organizations engaged in partnership activities.”¹³⁷ They also acknowledge that success requires open communication of values, differences, concerns, ideas, and solutions; as well as a certain degree of understanding and flexibility.¹³⁸ Williams and Ellefson’s definition of success implies a measure of longevity, in that groups who are able to attract and keep individuals *over time* can be considered successful. This success sustained over time is what is particularly interesting about the BLM RACs, in that, with the exception of one, where they were established, they have been functioning continuously for twenty years.

The BLM RACs are a longstanding (20 year) experiment in local collaborative governance that has been instituted by a policy mandate which, at minimum, fulfills Williams and Ellefson’s definition of success, “a group able to attract and keep individuals and organizations engaged in partnership activities.” This investigation seeks to understand how the BLM RACs measure up to the other principles of dispute resolution systems design and evaluation methods outlined here. However, before proceeding to evaluating the RACs, it is important to understand how they were developed and their relationship to the BLM in general. The following chapter is a brief walk through the history of the BLM and their approach to public involvement in land use planning and decision making.

3. The BLM, Rangeland Reform, and the advent of the RACs

This chapter begins with an overview of the BLM and the lands the Agency administers to establish the relevant background for explaining the institution of the RACs. It traces the evolution of public participation in the BLM’s land and resource management

¹³⁷ E.M. Williams and P.V. Ellefson. "Going into partnership to manage a landscape." *Journal of Forestry*. Vol. 95, No. 5 (1997): 32.

¹³⁸ *Ibid*; pg. 32

from the days just prior to the implementation of the Taylor Grazing Act through the Rangeland Reforms developed by Secretary Babbitt which established the Resource Advisory Councils in 1994. By doing so, it seeks to understand the regulatory requirements that set up the expectations and desired outcomes intended to be produced by the RAC, and how those requirements have shaped the activities of the RACs. Finally, this chapter addresses the first research sub-question: what catalyzed the use of collaboration in establishing the RACs?

Today the BLM manages 245 million acres of surface land and 700 million acres of sub-surface minerals primarily in the Western United States.¹³⁹ Organizationally, the agency is divided into State wide districts and regional field offices within those districts. The RACs are organized within the State Districts to provide advice on issues affecting either the State as a whole, or to one or more regional field offices. Of the RACs in the Rocky Mountain States investigated by this study, Wyoming, Utah and Arizona each have one RAC that provides advice on issues across the entire state.¹⁴⁰ New Mexico has four RACs, and Montana, Idaho, and Colorado each have three that enables them provide advice on a smaller geographic area and from a more localized perspective.

The RACs are the result of a long history of public management of the lands and resources administered by the BLM. The thread of public involvement that ultimately led to the modern system of RACs used today stitches together three distinct eras of rangeland management in what was once generically referred to as the public domain. First, prior to 1934, a relatively unmanaged common rangeland was equally accessible by all. An unregulated system of unfettered grazing consumed this “sea of grass,” eventually resulting

¹³⁹ <http://www.blm.gov/wo/st/en/prog/planning.html> accessed on Sept. 30th, 2015.

¹⁴⁰ Only the Rocky Mountain States are discussed here. The regional makeup of all the Western State Districts, as well as their field offices and the associated RACs can be found at: http://www.blm.gov/wo/st/en/info/resource_advisory.html

in a classic example of Garrett Hardin's "Tragedy of the Commons." Severe declines of a resource that once seemed so limitless during the period of westward expansion marked the desperate need for some system of regulation.¹⁴¹

Second, the Taylor Grazing Act of 1934¹⁴² enacted such a lease system, divided the commons into grazing districts and imposed fees on use of the public domain. One of the BLMs predecessor agencies, the U.S. Grazing Service established an early model of the RACs, the Grazing Advisory Boards, to assist in implementing the Taylor Act as early as 1935. The Grazing Advisory Boards were comprised of permittees from the local grazing districts and provided advice on all management decisions while the lease system guaranteed a degree of certainty to permitted ranchers and established a revenue stream for the nascent Federal Grazing Service.¹⁴³

The third era began in 1976, when Congress enacted the Federal Land Policy and Management Act. FLPMA broadened the scope of BLM management directives under the philosophical umbrella of Multiple Use, Sustained Yield.¹⁴⁴ Originating in a time when shifts in cultural expectations challenged the bureaucratic expert model of agency decision making, under FLPMA, Congress required public involvement and a process for judicial review in the management of the public lands.¹⁴⁵ In order to guide management actions, Congress required the BLM to develop resource management plans, and directed the

¹⁴¹ George Cameron Coggins and Margaret Lindberg-Johnson. The Law and Public Rangeland II: The Commons and the Taylor Grazing Act. *Journal of Environmental Law*. Vol. 13, No. 1 (1983): 3, 31. The second in a five part series of articles examining the evolution of federal law governing the public domain forms the basis of background information leading up to the enactment of the FLPMA in 1976.

¹⁴² Pub. L. 73-482

¹⁴³ Coggins and Lindberg-Johnson (1983): 48.

¹⁴⁴ George Cameron Coggins. The Law of Public Rangeland Management IV: FLPMA, PRIA and the Multiple Use Mandate. *Journal of Environmental Law*. Vol. 14, No. 1 (1984): 12. See *supra* note 101: This is the fourth in the five part series.

¹⁴⁵ Interest Representation and the Federal Land Policy and Management Act. *Michigan Law Review*. Vol. 80 (1984): 1305.

Secretary to develop regulations for including the public in the development process. However, FLPMA failed to articulate clear guidelines as to the nature and scope of that involvement, leaving interpretation of a vague statutory mandate to the BLM and the courts.¹⁴⁶ FLPMA also reconstituted the Grazing Advisory Board model, calling them Citizen Advisory Boards, and expanded their purview and membership to include a diverse cross section of interests. The Citizen Advisory Boards were empowered to provide advice and recommendations on the implementation of the act and resource management planning generally.¹⁴⁷

The regulatory reforms implemented by Secretary Bruce Babbitt in 1994 called Rangeland Reform '94, extend this third era by combining the Grazing Advisory Boards and the Citizen Advisory Boards into the modern Resource Advisory Councils.¹⁴⁸ These new regulations embraced FACA as an organizing framework, while continuing FLPMA's authorization for the advisory committees to provide advice on the "full array of ecosystem and multiple use issues associated with BLM administered public lands..."¹⁴⁹ Incidentally, the Rangeland Reform '94 Final Environmental Impact Statement (FEIS) points out that the Secretary of Agriculture has "...the authority to set up advisory boards consisting of a variety of interests and viewpoints..." and, "...could use these boards to gain input for rangeland use and management planning."¹⁵⁰ However, to date, the use of RACs within the Forest Service has been on a much more limited and temporary basis.¹⁵¹

¹⁴⁶ Ibid: 1304, 1313.

¹⁴⁷ Coggins (1984): 26.

¹⁴⁸ Rangeland Reform '94 FEIS: 18.

¹⁴⁹ Ibid

¹⁵⁰ Ibid

¹⁵¹ The Forest Service does use RACs at the county level as a process for distributing funds from the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106-393). However the RACs in this context have no authority to provide advice on issues of land use planning or resource management.

An Unregulated Commons

Prior to the implementation of the Taylor Grazing Act in 1934, the public domain was a commons, generally free to use and open to all with little oversight or regulation. Under the Unlawful Enclosures Act of 1885, Congress declared that the commons could not be fenced in, while the Supreme Court case of *Buford v. Houtz* guaranteed the public's right to access public lands, but according to Coggins and Lindberg-Johnson, beyond that, "federal law applicable to grazing on the public domain was notable mostly for its absence."¹⁵² During the nineteenth century, homesteading ranchers led the westward expansion,¹⁵³ and maintaining a policy of disposal of the vast estate it so recently acquired, the United States sold off or gave away parcels of land typically in tracts of 160 or 320 acres. Offered up by the General Land Office back in Washington D.C., these parcels in the arid West were considered relatively small and found to be insufficient to support viable ranching operations. Forced by necessity, ranchers adopted the Spanish style of letting cattle graze freely across the vast public domain for months at a time.¹⁵⁴ Simultaneously, Congress largely ignored range management and the responsibility for regulating grazing and other activities on the public domain fell largely to the States and Territories.¹⁵⁵ The state laws, which focused more on securing private property rights than conservation of the resource base, largely ignored the effect overgrazing had on the public domain.¹⁵⁶

¹⁵² Coggins and Lindberg-Johnson (1983): 27-28.

¹⁵³ Todd M. Olinger. "Public Rangeland Reform: New Prospects for Collaboration and Local Control Using the Resource Advisory Councils." *University of Colorado Law Review*. Vol. 69 (1998): 651. This article is a comprehensive review of the Rangeland Reform '94 and the advent of the Resource Advisory Councils.

¹⁵⁴ Ibid: 22.

¹⁵⁵ Coggins and Lindberg-Johnson (1983):24,32

¹⁵⁶ Ibid: 32-34. This depiction leaves out much of the story of the "Range Wars" that occurred between cattlemen and sheepherders on the open range. Coggins discusses the bitter battles waged over territory, and the scant forage and water west of the 100th meridian. He points out that the few state laws that were in place largely protected the powerful ranchers and often discriminated against the more nomadic sheepherders. The ultimate loser in the battle was undeniably the range itself.

By the turn of the twentieth century, Congress had authorized several means for withdrawing reserves of land from the public domain and placing them under systems of federal management. The National Park System and the National Forest Reserves both cleaved off the most scenic or the most productive lands. By 1905, as Coggins and Lindberg-Johnson explain, “the public domain had been carved up into parks, forests, and all the rest.”¹⁵⁷ The BLM’s other predecessor, the General Land Office ultimately became responsible for managing, “the lands that nobody wanted...”¹⁵⁸ but was still primarily in the business of disposition. In 1929, President Hoover offered to give the remaining unreserved public lands over to the states. The states refused, fearing that a transfer of ownership would result in the loss of significant federal financial benefits and an accumulation of even more lands they could, “...neither sell nor lease.”¹⁵⁹

Largely in response to the deterioration of range productivity that resulted from uncontrolled grazing, the Taylor Act was Congress’s move to regain control over an untenable situation and begin to improve the condition of the public domain. A hastily created Grazing Division under the Department of the Interior was given the responsibility for implementing and administering the Act. In its early days, the Grazing Service faced many challenges from the conflicts on the range, the depletion of resources, and a lack of administrative direction or guidance from the Department or Congress.¹⁶⁰ Nonetheless, the significance of the Taylor Act cannot be overstated: “The act is a step in the direction of conservation and regulated use on land hitherto without ownership and direction of a

¹⁵⁷ Ibid: 39.

¹⁵⁸ Al Pierson. The Bureau of Land Management: A Half-Century of Challenges and Change. *Land and Water Law Review*. Vol. 32 (1997): 346.

¹⁵⁹ Coggins and Lindberg-Johnson (1983): 44-45.

¹⁶⁰ Ibid: 54.

branch of Federal Government.”¹⁶¹ Additionally, today the Act, “...remains the conceptual foundation of rangeland management and the source of asserted range rights...”¹⁶²

Provisions of the Taylor Act

The primary goal of the Taylor legislation was, “...to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, to stabilize the livestock industry dependent upon the public range, and for other purposes.”¹⁶³ In fact, bad stewardship practices and overgrazing had depleted vegetation cover and subsequently the grazing capacity of the range by fifty percent.¹⁶⁴ The Taylor Act authorized the Secretary of the Interior to, “...promote the highest use of the public lands...”¹⁶⁵ through three main provisions: 1) to reserve and organize the unappropriated public lands into grazing districts¹⁶⁶; 2) to establish provisions for protection, administration, regulation, and improvement of the districts,¹⁶⁷ and 3) to establish a permit system to authorize use of the range upon payment of reasonable fees.¹⁶⁸ The requirements for public participation in the implementation of the act and subsequent management of the range are woven throughout these several provisions.

For example, a provision in Section 315 provides for a public hearing, and public notice of such a hearing prior to the establishment of any grazing district to allow for the input of, “...State officials, and the settlers, residents and livestock owners of the vicinity...”¹⁶⁹ Additionally, Section 315(h) made considerations for the Secretary to provide opportunities

¹⁶¹ Vergil Hurlburt. “The Taylor Grazing Act.” *The Journal of Land & Public Utility Economics*, Vol. 11, No. 2 (1935): 205.

¹⁶² Coggins and Lindberg-Johnson (1983): 48.

¹⁶³ Ibid: 50. Quoting the Preamble of the Taylor Grazing Act of June 28, 1934, Ch. 865, § 1, 48 Stat. 1269

¹⁶⁴ Olinger (1998): 651

¹⁶⁵ Pub. L. 73-482 codified as amended in 43 USC § 315

¹⁶⁶ Ibid

¹⁶⁷ 43 USC § 315(a)

¹⁶⁸ 43 USC § 315(b)

¹⁶⁹ 43 USC § 315

to cooperate with associations of Stockmen, State Agencies and other entities interested in the conservation of wildlife.¹⁷⁰ Finally, Section 315(o)-1a, as it was added with the passage of the Grazing District Advisory Board Act in 1939, officially authorized the Secretary to establish the Grazing Advisory Boards, “...so that the Secretary may have the benefit of the fullest information and advice concerning physical, economic, and other local conditions in the grazing districts...”¹⁷¹

The unregulated grazing that caused the deteriorated conditions of the range was one of the major catalysts to the passage of the Taylor Act. World War I saw the demand for meat production explode which resulted in an increase in grazing on the western public lands and consequently increased degradation to the range. Shortly after the War, the Great Drought exacerbated the deterioration of range productivity and nearly ruined the livestock industry in the West.¹⁷² Under the Taylor Act, improvement of the range was to be accomplished by controlling the amount of grazing through the permit system while providing for the expenditure of funds, “to perform such work as may be necessary amply to protect and rehabilitate the areas subject to [this act]...through such funds that may be made available for that purpose.”¹⁷³ In fact, twenty five percent of grazing fees collected were to be used for making improvements to the range, but the conditions were so bad that ranchers didn’t want to wait for the accumulation of funds from the grazing fees.¹⁷⁴ Some advocated for the use of the Civilian Conservation Corps and the Works Progress Administration to begin making immediate improvements. Consequently, because of the provisions providing for range improvements and greater certainty for grazing operations,

¹⁷⁰ 43 USC § 315(h)

¹⁷¹ 43 USC § 315(o)-1

¹⁷² Coggins and Lindberg-Johnson(1983): 40

¹⁷³ 43 USC § 315(a)

¹⁷⁴ Hurlburt (1935): 205, 206.

ranchers were overwhelmingly in favor of the Act, despite the increased regulation and federal control imposed upon the once free range.¹⁷⁵

A Unique Species of Range Democracy

Ferry Carpenter was appointed as the first Director of the Department of Interior's new Grazing Service and charged with the difficult task of implementing the Taylor Act. Believing that the ranchers themselves were the ones best capable of developing effective range management guidelines, and reluctant to impose a top-down management regime, he hastily, and without express authority from the Act, organized local ranchers into grazing advisory boards.¹⁷⁶ Trying to grasp a thread of management control and start reversing the trend of degradation, Carpenter empowered the advisory boards to classify lands, recommend licenses, and create rules for grazing operators.¹⁷⁷ This "...unique species of range democracy..."¹⁷⁸ was given free rein to establish the boundaries of the grazing districts, implement the grazing fee system, account for the local range conditions and make recommendations on the improvements that needed to be made. This system of local advisory boards catalyzed what came to be known as "home rule on the range"¹⁷⁹ and gave a small collective of local landowners an inordinate degree of power.¹⁸⁰

During the first few years of implementation of the Taylor Act, the ranchers became ever more comfortable with the level of power delegated to them by Carpenter and interpreted it as an implied authority over all range management decisions. Simultaneously, the grazing boards became dominated by large-scale operators whose parochial view of the range seemed to favor of their own economic interests at the expense

¹⁷⁵ Ibid: 206

¹⁷⁶ Olinger (1998): 653

¹⁷⁷ Ibid

¹⁷⁸ Coggins and Lindberg-Johnson (1983): 48-49.

¹⁷⁹ Olinger (1998): 653.

¹⁸⁰ Coggins and Lindberg-Johnson (1993):

of the ecological integrity of the landscape.¹⁸¹ As the BLM report, *50 Years of Progress* points out:

*These boards were expected to address the problem of overgrazing, but the economic well-being of individual ranchers and, indirectly, that of the local communities in which they lived, was closely tied to the number of animals the rancher was allowed to run on the Federal range. This meant that the local advisory board member could have placed his friends and neighbors in financial hardship. Many simply refused to make the hard decisions that were necessary to reverse the process of range deterioration...*¹⁸²

By 1938, the both Congress and the Secretary of the Interior, Harold Ikes were becoming concerned that the grazing boards wielded too much power and came dangerously close to violating the principle of constitutional sub-delegation. They began to pull back on the reins. Carpenter resigned under pressure from the Secretary and was replaced by Richard Rutledge, a former Forest Service employee who favored greater federal control. In their part, Congress enacted The Grazing District Advisory Board Act of 1939.¹⁸³

The Grazing District Advisory Board Act gave statutory authority to the advisory boards for the first time, while at the same time it augmented their structure in three fundamental ways that are still relevant today. First, the act implemented a two-step process whereby the Advisory Board members were nominated through an election by local permittees and then officially appointed to the board by the Secretary.¹⁸⁴ This appointment process can easily be construed as the mechanism by which Congress returned the final authority over the membership of the Boards and decision making power back to the

¹⁸¹ Olinger (1998): 653-654.

¹⁸² Paul Herndon. "History of Grazing on the Public Lands." In: Bureau of Land Management. *The Taylor Grazing Act 1934-1984: 50 Years of Progress*. Department of Interior (July 1984): 4. [BLM:50 Years of Progress is a collection of essays written by current (at the time) and former BLM Land Managers discussing the legal and statutory history of public land grazing and management. Individual essays are cited throughout this discussion, but the collection is also cited generally as *BLM: 50 years of Progress*.

¹⁸³ Pub. L. 76-173, codified as amended in 43 USC § 315(o)-1(a&b).

¹⁸⁴ Ibid

Secretary, ensuring that the Agency is not subjected to the undue influence of a single dominant set of interests. In addition to the appointment process, the Act reserved the right of the Secretary to remove members from the board.¹⁸⁵ Second, the act attempted to balance the represented viewpoints on the board by requiring the inclusion of one wildlife advocate to supplement the local stockmen on the twelve to fifteen-member committee.¹⁸⁶ Finally, the Act provided limitations on the advice the boards were to give, and expressly prohibited a member from offering advice that would result in a benefit in which that member held a direct interest.¹⁸⁷ These three provisions resemble those later adopted by FACA, FLPMA, and that currently exist within the regulatory framework structuring today's Resource Advisory Councils.

While the Taylor Act was able to bring the rangelands under federal control and implement some measure of regulatory authority to curb overgrazing, a combination of funding and administrative shortfalls prevented the Grazing Service from rehabilitating the range to its former productivity. In fact the condition of the range continued to decline and was seen as indicative of two things. First, it exhibited the inability of the Grazing Boards to put the protection of rangeland ecosystems above their economic wellbeing.¹⁸⁸ Second, it highlighted a fundamental problem with the Grazing Service's philosophy of decentralized administrative authority and reliance on the grazing permittees information and advice to direct management.¹⁸⁹ Rather than balancing the two competing provisions of the law, the Service subordinated its directive to "...stop injury to the public grazing lands..." to, "...stabilizing the livestock industry..." and consequently facilitated a continued over-use of the range by the industry.

¹⁸⁵ Ibid

¹⁸⁶ Ibid

¹⁸⁷ 43 USC § 315(o)-1(b).

¹⁸⁸ Olinger (1998): 654.

¹⁸⁹ Coggins and Lindberg-Johnson (1983): 58.

The Evolution of Range Management between 1934 and 1976

In 1970, the congressionally appointed Public Land Law Review Commission released its report enumerating a long list of changes to administrative and procedural law governing the management of the public lands, some of which were adopted by congress when it enacted FLPMA. Additionally, between 1970 and 1976, the BLM frequently sought “organic legislation,” similar to that of the Forest Service, to grant it express management authority over the Nation’s public lands.¹⁹⁰ In 1976, Congress enacted the Federal Lands Policy and Management Act (FLPMA) in response to these and a number of other public concerns roiling just beneath the surface. Under the Taylor Act, the Federal government retained the authority to manage the public lands so long as those lands remained in public ownership. At the time, it was still the official policy of the administration that the lands remaining in the public domain would eventually be disposed of through the General Land Office either directly to the states or to private entities. The enactment of FLPMA in 1976 reversed that policy, declaring the Federal government would largely retain ownership of the remaining public estate.¹⁹¹ In the forty years between the implementation of the Taylor Act and this new organic legislation, several other important developments took place to shape the future of land and resource management within the BLM.

The first notable development was the merger in 1946 of the Grazing Service and General Land Office within the Department of the Interior to create the BLM. With this merger, the BLM inherited both the strengths and some of the weaknesses of its predecessor agencies. A combination of shrinking appropriations from Congress, budgetary constraints, staff capacity, and the influence of the, by then, well-established Grazing Advisory Boards (GABs) hindered the new agency from making notable progress towards

¹⁹⁰ Coggins (1984): 4.

¹⁹¹ Lee Sharp. “Overview of the Taylor Grazing Act.” In *BLM:50 Years of Progress* (1984): *supra* note 138 at 10.

improving the conditions and productivity of the public rangelands.¹⁹² Instead, for the first two decades of its existence, the BLM spent the majority of its time re-adjudicating grazing permits and allotments to bring livestock numbers within carrying capacity.¹⁹³

Various attempts to increase grazing fees and reduce the permitted numbers of livestock in the 50's and 60s met with resistance from the powerful GABs.¹⁹⁴ In the early fifties, the BLM tried to balance grazing use with the carrying capacity of the range by adjusting the numbers of permitted animals based on a scientific approach, a measure which largely failed to bring about significant change.¹⁹⁵ Initially, grazing fees were set by the Grazing Service to cover their administrative costs but shortly after, due to pressure from the Grazing Advisory Boards and the powerful livestock interests, fees were allowed to drop far below what administration of the permit system cost the Agency.¹⁹⁶ By 1949, grazing fees charged by the BLM were six time less than what the Forest Service charged.¹⁹⁷ In the 1950's, grazing fees were adjusted slightly to reflect inflation but a joint Department of Interior/Department of Agriculture study in 1966 determined fees should be increased by both departments to \$1.26 per animal, nearly quadruple the thirty-three cents the BLM was charging at the time.¹⁹⁸

The growth of the environmental movement in mid-sixties and early seventies brought newfound public attention to how the public lands were being managed. At that

¹⁹² Coggins and Lindberg-Johnson (1983):63.

¹⁹³ Herndon (1984): 4. Between 1950 and 1966 the BLM implemented an adjudication procedure to try to better align permitted animal numbers with the carrying capacity of the range. Political expediency required the Agency to make concessions that were inconsistent with the available forage. According to Herndon, "If judged by conditions prevailing at the time of the Taylor Grazing Act was passed, the accomplishments were monumental; if judged by the potential of the land, there remained much to be done."

¹⁹⁴ Coggins and Lindberg-Johnson (1983): 72-89.

¹⁹⁵ Ibid: 66; See also Herndon (1984): 4.

¹⁹⁶ Coggins and Lindberg-Johnson(1983): 73

¹⁹⁷ Ibid

¹⁹⁸ Ibid

time, an increasingly urban population began to increasingly value outdoor recreation and advocate for protection of wildlife habitat, watersheds and non-consumptive uses of the public lands.¹⁹⁹ The conservation organizations that had sprouted up began to decry the dominant use management philosophy that had guided the BLM since the beginning.²⁰⁰ Then, in 1970, the congressionally appointed Public Land Law Review Commission submitted their final report recommending over 100 actions agencies or Congress should take to improve or augment the management of the public lands. Among the recommendations were that both the Forest Service and the BLM reduce the number of permitted animals to improve range health, and the use of the “fair-market value” standard for determining grazing fees.²⁰¹ Shortly after the report was submitted to Congress, the BLM sought out legislative action to gain “organic” management authority over the public domain.²⁰²

The enactment of the National Environmental Policy Act in 1969 (NEPA) and the Federal Advisory Committee Act in 1972 (FACA), as discussed in the previous chapter, brought about landmark changes in the public’s ability to interact with public lands management. FACA ensured that groups advising federal agencies consisted of a balanced representation of all the interests and provided the framework within which the current RACs were developed. In addition to the public participation provisions in NEPA, the Act’s major significance was the requirement that any “major federal actions” proposed by a federal agency include a statement of environmental impacts affecting the quality of the

¹⁹⁹ Wondolleck and Yeffe (2000): 12.

²⁰⁰ Coggins and Lindberg-Johnson (1983): 100.

²⁰¹ Ibid

²⁰² Ibid

human environment, any expected adverse environmental effects of the proposed action, and a range of possible alternatives to the proposed action.²⁰³

The passage of NEPA in 1969 gave the budding environmental community a legal stick to wield in order to remedy the degradation occurring on the federal public lands over the past decades. In 1974, the Courts landed a resounding blow to the BLM. The Natural Resources Defense Council (NRDC) brought suit against the Secretary of the Interior, insisting that the BLM's use of a single, programmatic Environmental Impact Statement (EIS) to address the entire grazing management program was insufficient.²⁰⁴ NRDC sought sight specific EIS analysis for each grazing unit. The courts generally agreed.²⁰⁵ The NRDC v. Morton ruling prompted Congress to finally address the condition of the public rangelands and pass FLPMA two years later.

FLPMA, PRIA and the Multiple Use Mandate

By enacting the Federal Land Policy and Management Act in 1976 (FLPMA) and the Public Rangeland Improvement Act of 1978 (PRIA), Congress acknowledged what ranchers, conservationists, and the BLM had been telling them for decades: the federal public rangelands were in deplorable condition.²⁰⁶ Recognizing that, Congress reversed the 200 year old policy of disposal in favor of retaining the public lands under federal ownership.²⁰⁷ They mandated the BLM use a Multiple-Use Sustained-Yield management philosophy,²⁰⁸

²⁰³ Pub. L. 91-190 §§ 102 (C)(i)(ii)(iii) Codified as amended 42 USC §§ 4321-4335

²⁰⁴ See generally: NRDC v. Morton

²⁰⁵ Herndon (1984): 5; See also Coggins (1984):3 who elicits that the court ordered the BLM to prepare an Environmental Impact Statement (EIS) individually on all fifty-two grazing districts, comprising over 144 million acres of land. Incidentally, Coggins also states that while all the EISs had yet to be completed at the time of writing, the initial statements show that, "...range condition is the agency's overriding management problem."

²⁰⁶ Herndon (1984): 5. According to a 1970 Interior Department report, 123 Million acres of the public rangelands were classified in poor condition; See also: Olinger (1998): 647; Coggins (1984): 110-111. In enacting PRIA, Congress found that thirty-three percent of the BLM's lands were in poor or bad condition and "vast segments of the public rangelands were in deplorable condition."

²⁰⁷ The Federal Lands Policy and Management Act of 1976, Pub. L. 94-579 § 102(1)

²⁰⁸ Ibid: §102(7).

and provided the Agency with the organic legislation it so desperately needed, directing it to improve the ecological conditions of the public lands and providing it with the management authority to regulate the formerly uncontrolled land uses.²⁰⁹ FLPMA explicitly protected the scientific, scenic, historic, ecological, and other values, and, “...where appropriate, protect certain lands in their natural condition...for the benefit of fish, wildlife and outdoor recreation.”²¹⁰ Not only was protection of resources declared a management requirement, but the rehabilitation of the range is facilitated through a new funding allocation system. Fifty percent of all grazing receipts were directed to go towards on-the-ground range rehabilitation, protection and improvements.²¹¹ FLPMA also adopted the “fair market value” standard for setting grazing fees recommended by the Public Land Law Review Commission.²¹²

PRIA supplemented and refined the management requirements laid out in FLPMA, provided further funding for rangeland improvements, and declared rangeland improvement to be *the* overall management goal. Legal scholars, public lands managers, policy makers and academics ²¹³ have analyzed and discussed the statutory nuances and on-the-ground effects of FLPMA and PRIA extensively in the forty years since its enactment far more thoroughly than can be constructed here, but what is important for the purposes of this study is that PRIA is a recognition of the continuing deterioration of the public rangelands while FLPMA substantiates the public involvement strategies the BLM and its predecessor the U.S. Grazing Service developed by instituting the Grazing Advisory Boards in the 1930's.

²⁰⁹ Coggins (1984): 4, 19.

²¹⁰ Pub. L. 94-579 § 102(8)

²¹¹ Coggins (1984): 22.

²¹² Pub. L. 94-579 § 102(9)

²¹³ See generally: Coggins (1984); Olinger (1998); BLM: 50 Years of Progress (1984)

Despite the fact that the early Grazing Boards wielded a powerful influence over the BLM, oftentimes “hogtying” the agency and compelling it to elevate the needs of the livestock industry over ecological improvement, Congress recognized the value in preserving the advisory board model. The Grazing Advisory Boards were retained by Congress in FLPMA, but their power was substantially curtailed.²¹⁴ Instead, Congress directed the Secretary to establish a new form of Citizen Advisory Boards under the provisions of the Federal Advisory Committee Act, and granted them with the general power to, “...furnish advice on land use planning, classification, retention, management and disposal.”²¹⁵

Establishing the Citizen Advisory Boards under FACA was an important development in the management of the public rangelands and instituting collaborative governance over public land and resource management. In a time of increasing public concern over the environment, especially the ecological condition of the public lands, this development heralded two things: 1) the changing relationship of the public to federal land and resource management, and 2) the increasing employment of alternative dispute resolution techniques to resolve conflicts over public policy issues.

Rangeland Reform '94 and the Dawn of the RACs

Shortly after the Clinton Administration was elected to office in the early 1990s, Bruce Babbitt was appointed Secretary of the Interior. As a cattle rancher and the former Governor of Arizona, Babbitt was well-known as a consensus builder and someone who could straddle the divide between the conservation and livestock interests. Babbitt felt compelled by the public concern over the environment that, in part, brought the Clinton

²¹⁴ Coggins (1984): 26. Under FLPMA, the Grazing Advisory Boards are temporary and only authorized to provide advice to the District Office on the development of Allotment Management Plans, the principle range management plan for permitting grazing operations.

²¹⁵ Ibid; see also: Pub. L. 94-579 § 309(d) codified as amended 43 USC 1739.

Administration into office, and took on range reform as one of his first orders of business. The previous decades had seen marginal improvements in rangeland management and a stabilization of the BLMs budgetary and administrative insecurities that had plagued them prior to the enactment of FLPMA and PRIA. So, at the turn of the decade, why the need for yet another set of reforms?

NEPA, FLPMA and PRIA had shed substantial light on the environmental problems caused by the overgrazing that had occurred throughout the history of the public rangelands.²¹⁶ The changing demographic and economic realities of “the New West” saw a shift in public policy perspectives and concerns over the use (and overuse) of the public lands. A population that, prior to WWII was primarily employed in the ranching, mining, or timber industries, was increasingly moving to urban communities and reliant on an economic base focused around the manufacturing, technology and service industries.²¹⁷ This increasingly urban population began to value the public lands for non-consumptive recreation purposes. Combined with the increased influence of environmental groups across the country clamoring for protection of fish and wildlife habitat, the BLM faced mounting pressure to improve range conditions and consider values other than ranching and mining in land use planning and management.²¹⁸ Finally, Babbitt recognized that the administration of the grazing permit system was unsustainable, and the agency needed to realize a better return from the grazing fees.

According to the Final Environmental Impact Statement for Rangeland Reform '94, the new regulations attempt to better implement the multiple-use mandate, further addresses deteriorating ecological conditions on the range by imposing federal Standards

²¹⁶ Olinger (1998): 648.

²¹⁷ Ibid

²¹⁸ Ibid

and Guidelines for rangeland rehabilitation, outline a new grazing-fee structure, and combine the Grazing Advisory Boards with the Citizen Advisory Boards into the more comprehensive Resource Advisory Councils known today.²¹⁹ The ingenuity of the reforms was exemplified in the collaborative process that was used in their development, but the significance was not fully realized until they began to be implemented. As the Final EIS for Rangeland Reform '94 explains:

A major policy element of the reform package consists of national requirements and guiding principles for the local development of state or regional standards and guidelines for livestock grazing on BLM-administered lands. Fallback standards and guidelines in the Preferred Alternative would take effect if regional standards and guidelines have not been developed within 18 months.²²⁰

This statement underscores the purpose of the new reforms and also the original intent of the Resource Advisory Councils, to develop from a local perspective state and regional standards and guidelines for livestock grazing. The regulations implemented a federal floor or “fallback standards and guidelines”, as the baseline for managing the ecological condition of the public rangelands, in the event that the RACs were unable to agree.²²¹ Rangeland Reform '94 established the RACs to develop, with consideration of the local conditions and cultural heritage, Standards and Guidelines to meet or exceed this federal floor for rangeland management. The regulations also pose limitations on the RACs authority that previously were not specifically voiced in other legislation.²²² In addition, the reforms addressed several other difficult issues the BLM found themselves dealing with: the unauthorized sub-leasing of grazing permits, methods for protecting desert ecosystems,

²¹⁹ Rangeland Reform '94 FEIS: 3.

²²⁰ Rangeland Reform '94 FEIS: 4.

²²¹ 43 CFR § 4180.2 (f)

²²² Ibid: 18. Specifically, Rangeland Reform '94 prohibits the RACs from providing advice on, “internal BLM management concerns such as personnel or budget expenditures.”

how to spend range betterment funds, directing an ecosystem approach to rangeland management, and adjusting grazing fees to realize a fair value.²²³

The Rangeland Reform regulations define the core purpose of the RACs by instituting a process for collaboratively developing the Standards and Guidelines for rangeland management. In the process, they recognize FACA as an effective governing structure for instituting collaborative decision making in public land use and resource management. Requiring the establishment of a standing FACA committee authorized to provide advice on “the full array of ecosystem and multiple use issues associated with BLM-administered public lands...” is a unique feature of the BLM RACs and brings the institution within the legal framework outlined in the previous chapter. The question then turns to why, considering that local control of rangeland management resulted in nearly seventy years of degradation to the ecological resources found on the public rangeland, did Secretary Babbitt insist on continuing a policy of decentralized management and looking to local users for information for decision making?

Why the RACs? A Continued Experiment in Collaborative Governance

In establishing the RACs, Rangeland Reform '94 continued a policy of local governance of public rangeland management but with some substantive changes from the previous models that simultaneously diversify the interests represented, limit their power, and provide them with a sense of direction. In order to better account for the values of the competing and complementary uses of the public lands, the regulations outline distinct membership categories that, “...reflect a balance of views.”²²⁴ The membership categories are as follows: Category 1) Persons who hold Federal grazing permits or leases within the area for which the council is organized; represent interests associated with transportation

²²³ *ibid*

²²⁴ Rangeland Reform '94 FEIS: 18.

or rights-of-way; represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities; represent the commercial timber industry; or represent energy and mineral development. Category 2) Persons representing nationally or regionally recognized environmental organizations; dispersed recreational activities; Archeological and historical interests; or nationally or regionally recognized wild horse and burro interest groups. Category 3) Persons who hold State, county or local elected office; are employed by a State agency responsible for management of natural resources, land, or water; represent Indian tribes within or adjacent to the area for which the council is organized; are employed as academicians in natural resource management or the natural sciences; or represent the affected public-at-large.²²⁵

The BLM has a nearly eighty-year history of collaboratively managing the public domain, from the days of the informal grazing advisory boards set up by Ferry Carpenter to today's modern Resource Advisory Councils. As Olinger succinctly puts it, "...local control was not a new concept in grazing management. In fact, it was a concept that dated to nearly the beginning of federal regulatory control of the ranges, and which, as the current condition of the range indicates, has been largely unsuccessful in protecting the environment of the public range."²²⁶ The reasons for continuing with this experiment in local governance reflect the evolving nature of public lands management and an increase in the use of alternative dispute resolution techniques throughout the Federal government to resolve conflicts and move policies forward.

This evolution is prevalent in the work of the Colorado Group. Without the efforts of this diverse group of ranchers, wildlife advocates and conservationists, the RACs may have

²²⁵ 43 CFR § 1784.6-1(c). The establishment and articulation of these interest categories was a development implemented by the Rangeland Reform '94 regulations (see: 60 Fed. Reg. 9900 - 9901)

²²⁶ Olinger (1998): 650.

met with much more resistance, especially by the national environmental organizations who were already weary of instituting another system of local control.²²⁷ Initially, Secretary Babbitt held four town-hall style meetings to develop the proposal for new regulations. After significant pressure by Congress and Western ranchers, Babbitt promised to work more closely with the affected parties to develop the second round of proposed regulations. This promise led to the establishment of the Colorado Rangeland Reform Working Group (the Colorado Group) in 1993 by Secretary Babbitt and Governor Romer of Colorado. The group's membership included ranchers, environmentalists, and elected officials who were committed to forging solutions through a consensus-based process. The group met nine times between 1993 and 1994, hammering out recommendations to issues around public input, range use, range improvement funding, enforcement, grazing fees, water issues, and other concerns. The recommendations of the Colorado Group were almost universally adopted in the Rangeland Reform '94 package.²²⁸

Environmentalists involved in the Colorado Group favored keeping ranchers on the land, "as a way to avoid sprawling development and maintain cultural integrity, while the group's ranchers were willing to place more emphasis on ecosystem management in their operations to satisfy environmental concerns."²²⁹ The Colorado Group's recommendations emphasized both community and ecosystem health equally, acknowledging the importance of promoting sustainable communities, producing good stewards of the land, and favoring ecosystem function over resource extraction.²³⁰ The Group also felt that a centralized, top-down management structure could never adequately implement ecosystem management, which inherently reflects the nuance of the local ecology and local culture. Here,

²²⁷ Olinger (1998): 665.

²²⁸ Ibid: 657-664.

²²⁹ Ibid: 662.

²³⁰ Ibid: 664.

concessions were made to the environmental concerns over the past problems with local control of the range, and the RACs were developed to include members of national environmental groups. As such, the Colorado Group laid the foundation for the current model of collaboration and consensus-building adopted by the BLM through Rangeland Reform '94. In fact, included in their report to Babbitt, the Colorado Group produced a paper on their consensus-building process titled *Models for Enhanced Community-Based Involvement in Rangeland Reform*. The DOI noted in their final published rule that in general the Department, "...agrees with the findings of the group and has attempted to incorporate all key elements of the model for public involvement in this proposed rule."²³¹

As it was adopted, Rangeland Reform '94 amended nearly all of the regulations governing advisory committees detailed in 43 CFR § 1780.²³² The language used in the *Federal Register* describing the final adopted rule indicates that the BLM intended that the RACs fulfill the role of the advisory committees and all their associated functions required under FLPMA stating:

*FLPMA directs the Secretary to establish advisory councils of not less than 10 and not more than 15 members. Members must be appointed from among representatives of the various major citizens' interests concerned with problems relating to land use planning, or with the management of the public lands located within the area for which an advisory council is established. At least one member must be a publicly elected official. The department envisions that the RACs formed in each State under the final rule will fulfill these statutory requirements."*²³³

Also according to the final adopted rule, the RACs were established to accomplish two primary goals: providing advice on the full array of multiple use issues, and consulting on the preparation of standards and guidelines for rangeland health. As the final rule dictates:

²³¹ Ibid: 663.

²³² Department Hearings and Appeals Procedures; Cooperative Relations; Grazing Administration—Exclusive of Alaska, 60 Fed. Reg. 9900-9901(Feb. 22, 1995) (amending 43 CFR § 1784).

²³³Department Hearings and Appeals Procedures; Cooperative Relations; Grazing Administration—Exclusive of Alaska, 60 Fed. Reg. 9900-9901(Feb. 22, 1995) Pg. 9895.

The role of the RAC is to provide advice to BLM. Each RAC will focus on the full array of multiple use issues associated with public lands within its area of jurisdiction. They will consult on the preparation of standards and guidelines for grazing administration...They will also provide advice on preparation, amendment, and implementation of land use management plans and activity plans and consult in planning for range development and improvement programs. ²³⁴

The final regulations also implemented a variety of provisions that helped to structure the RACs and provide them some initial direction moving forward. First, they established and organized the categories used to ensure diverse representation of the public's interests.²³⁵ Next, it provided authorization for specifically assisting with resource management planning in addition to the other duties already authorized by FLPMA in section 1784.0-6.²³⁶ It also outlined the three models of RAC organization from which the district managers could choose to structure the RAC's initial charters.²³⁷ One of the most interesting provisions of the RACs is a paragraph in § 1784.6-1 that states, "Where the resource advisory council becomes concerned that its advice is being arbitrarily disregarded, the council may request that the Secretary respond directly to such concerns within 60 days of receipt..."²³⁸ This is presumably implemented to provide a measure of accountability to the RAC by the State Director and the local managers.

The last provision of the regulations affecting the RACs amends the grazing management requirements, characterizes the federal fundamentals of rangeland health, and requires the local standards and guidelines be consistent with the described fundamentals.²³⁹ The federal fundamental standards are intended to, "...address the necessary physical components of functional watersheds, ecological processes required for healthy biotic communities, water quality standards and objectives, and habitat for

²³⁴ Ibid: Pg. 9896

²³⁵ 43 USC § 1784.6-1

²³⁶ Ibid

²³⁷ 43 USC § 1784.6-2

²³⁸ 43 USC § 1784.6-1(i)

²³⁹ 43 CFR § 4180.1

threatened or endangered species or other species of special interest.”²⁴⁰ The RACs are specifically directed to assist in the development of local standards and guidelines, “...to provide specific measures of rangeland health and to identify acceptable or best management practices in keeping with the characteristics of a State or region such as climate and landform.”²⁴¹ The regulations require local standards and guidelines to at minimum meet the federal standards and address a suite of ecological concerns.²⁴² Section 4180(C)(3)(f) also dictates that until these local standards and guidelines are approved by the Secretary, federal fallback standards and guidelines will apply and be implemented.²⁴³ Unique to federal land management, this provision implements the model of creating a federal regulatory floor and encouraging the states or local regions to develop measures to meet or exceed the baseline standards.

Upon release of the initial EIS, the Rangeland Reform package came under fire from national environmental groups, ranchers and some federal lawmakers. For some, the reforms didn’t provide strong enough environmental safeguards, others lambasted the grazing fee increases, while still others chided the provision allowing direct appeal to the Secretary.²⁴⁴ In response to these criticisms and the over 38,000 comments received by the DOI on the draft EIS, some changes were made to the final rule delaying the implementation of the grazing fee increase and establishing the requirement for RAC members to reside within the State in which they have jurisdiction. Shortly after the rules were adopted, the Public Lands Council filed a facial challenge to the regulations claiming the new regulations on grazing were incompatible with the Taylor Grazing Act and FLPMA and that the, “security of their ‘historical adjudicated’ preferences in terms of numbers of AUMs was

²⁴⁰ 60 Fed. Reg 9898 (Feb. 22, 1995) (Amending 43 CFR § 4180.1)

²⁴¹ 60 Fed. Reg. 9899 (Feb. 22, 1995)(Amending 43 CFR § 4180.2)

²⁴² 43 CFR § 4180.2(C)(3)(d – e)

²⁴³ 43 CFR § 4180.2(C)(3)(f)

²⁴⁴ Olinger (1998): 674-675.

lost.”²⁴⁵ The challenges found their way through to the Supreme Court which ultimately upheld all of the provisions of Rangeland Reform ‘94.²⁴⁶ In the end, Secretary Babbitt’s commitment to the Colorado Model and writing “a new chapter in range management...”²⁴⁷ guided the reforms through these tempests and finally saw twenty-three RACs established late in 1995.²⁴⁸

The language used by the agency in the Federal Register adopting the final Rangeland Reform ‘94 regulations provides an illuminating backdrop for considering whether the RACs have fulfilled their regulatory requirements. Their two principle requirements developed under Rangeland Reform ‘94 and codified in the regulations are to: 1) consult with the BLM State Director to develop local standards and guidelines for rangeland health²⁴⁹; and 2) provide advice on, “policy formulation, program planning, decision making, attainment of program objectives, and achievement of improved program coordination and economies in the management of public lands and resources...”²⁵⁰ Remembering these two critical functions of the RACs when assessing their effectiveness will highlight why they have been continuously reauthorized by the Secretary of the Interior for twenty years.

4. Assessing the BLM RAC Model

Chapter four examines the RAC model from the participant’s point of view and the extent the Rocky Mountain RACs are able to fulfill their responsibilities as directed by the regulations. This examination relies on in-depth interviews conducted with representatives

²⁴⁵ Pamela Baldwin. “Federal Grazing Regulations: Public Lands Council v. Babbitt.” CRS Report for Congress. (1 November, 2003): 2-6.

²⁴⁶ Ibid: 1.

²⁴⁷ Ibid: 675.

²⁴⁸ The final rules were officially adopted on August 21, 1995, 180 days after they were published in the Federal Register.

²⁴⁹ 43 CFR § 4180.2(a)

²⁵⁰ 43 CFR § 1784.0-6

from four Rocky Mountain region RACs to gain their insights into how the RACs function, how they define success, and their perceptions of effectiveness. A summary table of recommendations and advice provided to the BLM by all sixteen Rocky Mountain RACs was also constructed from the review of the meeting minutes that was conducted as background research for this study (see Appendix IV). This table is used to identify and discuss the degree to which the RACs are accomplishing the goals and mandates under which they were established. Section one of this chapter outlines the interview methods in detail, while section two discusses the criteria used for evaluating the RAC model. Finally, section three discusses the RAC participant interviews and recommendations in detail through the lens of the evaluation criteria discussed in section two.

According to Hesse-Biber and Leavy, in analyzing in-depth interviews, the researcher is, “looking for patterns that emerge in the ‘thick descriptions’ of social life recounted by their participants...” with the goal of, “...gaining rich qualitative data, from the perspective of selected individuals, on a particular subject.”²⁵¹ In this study, the subject under investigation is the effectiveness of the RACs as an institution, and the patterns that emerge are represented by quotes from the interviewees. The qualitative data gained through the interviews is used to develop a picture of the overall effectiveness of the institution and extract lessons to inform refinement or the future development of similar processes of collaborative governance.

Using interview quotes to paint a picture of the RAC’s, their effectiveness is evaluated based on the criteria laid out in section two. The evaluation criteria developed for this study are based on the literature review conducted for chapter two about evaluating processes of ECR. By relying on quotes of the participants in this study and the patterns

²⁵¹ Hesse-Biber and Leavy (2006): 119, 120.

that emerged from an analysis of the interview transcripts, section three addresses the remaining two research sub-questions: 1) what has enabled the RACs to achieve their core purpose; and 2) what sustains the RACs over time as a collaborative arrangement instituted by a policy mandate within a federal land management agency?. The discussion of these findings is divided into two sections, each addressing one of the research sub-questions.

Interview methods

Interviews followed procedures detailed in the literature evaluating collaborative processes of ECR. Many scholars have relied on participant perception to evaluate success of collaborative processes, as well as a variety of methods to gain those perspectives including semi-structured interviews and formal survey instruments.²⁵² In their investigation of over fifty cases of community-based collaboration on federal lands, McKinney and Field use a standardized survey instrument and base their evaluation on the premise, "...that participants are in one of the best positions to evaluate the relative success of their effort."²⁵³ Lu and Schuett, use semi-structured interviews to gain an understanding of concerns over forest management issues on the Sam Huston National Forest in Texas.²⁵⁴ Schuett, Selin and Carr also discuss the use of purposive sampling techniques, open ended questioning, and analyzing the content of collected responses to their questioning. In analyzing the responses to their questions, they look for common themes, develop categories from those themes, and use quotes to, "...illustrate the richness of these data..." in their reporting.²⁵⁵

²⁵² See generally: Cestero (1999); Leach (2006); McKinney and Field (2008); Michael A. Schuett, Steve W. Selin, and Deborah S. Carr. "Making It Work: Keys to Successful Collaboration in Natural Resource Management." *Environmental Management*; Vol. 27, No. 4. (2001): 587-593.;

²⁵³ McKinney and Field (2008): 420.

²⁵⁴ Jiaying Lu and Michael A. Schuett. "Examining the Role of Voluntary Associations in Environmental Management: The Case of the Sam Houston National Forest." *Environmental Management*; Vol. 49 (2012): 334-346.

²⁵⁵ Schuett, Selin, and Carr (2001): 588-589.

The RACs selected as the sample population for this study were purposely chosen to capture a cross section of the geographic and ecological characteristics that exist in Rocky Mountain region, as well as the diverse RAC models described in 43 CFR § 1784.6-2. Each interview respondent was purposely-selected to represent one of the three interest categories that make up the RAC membership. Additionally, one BLM staff member directly involved with the RACs was also selected to be interviewed. In three of the four RACs studied, a full array of one agency representative and three RAC members (one from each interest category) were interviewed. In one case, only one Agency representative and one RAC member were able to be interviewed. In total, fourteen phone interviews were conducted between March and June of 2015.

Respondents were provided with the interview questions and letter of informed consent prior to the call (see: Appendix I). Interviews lasted between 45 and 90 minutes with the average interview lasting just about an hour. Interviews were digitally recorded with the permission of the interviewee and transcribed by hand by the principle investigator. At the time of the interview, each participant acknowledged receiving the informed consent form and interview guide, and also verbally expressed their consent to both participate in the interview and to have the interview recorded. To ensure confidentiality, recordings were transcribed absent of any information that could identify the respondent. Audio files and transcriptions were also kept in separate folders on a password protected computer accessible only to the principle investigator.

The sample size naturally poses some limitations on the ability to generalize theories from the interview responses. The sample was limited to maintain a manageable number of interviews in the time allowed for the study to be completed, and to understand from a more regionalized perspective if further investigation into the RAC's nation-wide

effectiveness is warranted. Since only RAC members and agency representatives were interviewed, responses to the questions may be biased in favor of the views of those who already believe in the RAC as a valuable process for decision making, and who inherently have a stake in ensuring its success. Consequently, the views of those people who are affected by or have an interest in BLM management decisions, but who are outside the RAC process are not accounted for in this study. Although a limited sample population, the in-depth interviews collected in this study provided detailed insight into the consensus-building process and overall effectiveness of the Rocky Mountain RACs from the point of view of the diverse interests involved.

Evaluation Methods

After the interviews were transcribed, the content of the text was analyzed for relevant quotes, and quotes were categorized into themes²⁵⁶ based on the evaluation criteria presented below.²⁵⁷ The evaluation criteria used for this study was adapted from the literature on evaluating ECR and ADR described in chapter two (see also: Table I, below). The following discussion of the findings weaves quotes from the interviews through the evaluation framework constructed by the criteria. Drawing on the views and opinions of the RAC members and BLM staff highlights many of the RAC's successes, challenges, and critical enabling features. Quotes used in the discussion were chosen because they were representative of themes discussed by other interviewed RAC members and BLM representatives.

²⁵⁶ Hesse-Biber and Leavy (2006):343-359 describe the process of analyzing qualitative data and coding collected data into themes using a grounded theory approach. See Also: Carl F Auerbach and Louise B. Silverstein. *Qualitative Data: An Introduction to Coding and Analysis*. New York, NY: New York University Press (2003): 31-73. The coding techniques used in this study to categorize content into themes from the responses of the participant interviews was largely adopted from the approach described here.

²⁵⁷ See generally: Lu and Schuett(2012); Schuett, Selin, and Carr (2001) for justification on using semi-structured interviews, content analysis and theme development as an approach to evaluating collaborative process design through participant perspectives.

This evaluation of the RAC institution is based on the views and opinions of the RAC members and the BLM staff most closely involved in the process. According to Conley and Moote, participant perceptions can be used to, "...identify stakeholder attitudes, opinions, and relationships; reduced conflicts between parties; increases in social capital; and other social changes."²⁵⁸ Relying on participant perceptions inherently poses some limitations to the evaluation. According to McKinney and Field, "This approach to evaluation creates some selection bias because it does not include the views of people who are not part of a particular [community-based collaboration], but who may nevertheless be interested in and affected by the outcomes."²⁵⁹ While this study includes only the insights of RAC members and the agency staff involved in the program, it is a good platform from which to begin an exploration into the RAC institution.

The evaluation criteria used in this study has been adopted from the substantial literature on evaluating community-based collaboration and processes of environmental conflict resolution that has accumulated over the past two and a half decades. The criteria used in this study mainly account for tangible and intangible effects of the process of the RAC's deliberations. Interview questions were developed to elicit responses related to representation and inclusion, the ability to build consensus and make consensus-based recommendations, the development of social and political capital that often accompanies successful collaborative and consensus-building processes of public engagement.

Many evaluations of collaborative process focus on the on-the-ground or tangible outcomes resulting from the deliberation of the group.²⁶⁰ However, as the recommendations provided to the BLM are advisory only, it is difficult to evaluate the RACs

²⁵⁸ Conley and Moote (2003): 380.

²⁵⁹ McKinney and Field (2008): 421.

²⁶⁰ Conley and Moote (2003): 374.

based on the implementation of their recommendations. Therefore, despite the RACs demonstrated ability to produce collaborative, consensus-based advice, this study focuses less on the tangible, on-the-ground outcomes in favor of the process-based evaluation and a cursory overview of the RAC's ability to provide consensus-based recommendations to the Agency. Conley and Moote suggest, "...people's perceptions are often seen as less appropriate for measuring tangible outcomes, due to their subjectivity and reliance on respondent's memories."²⁶¹ Therefore, as discussed above, an analysis of the meeting minutes of the sixteen Rocky Mountain RACs was used to construct a table of recommendations and advice that supplements the interview responses (see Appendix IV). This analysis is used to show what topics the RACs have discussed over the past two years and where they have found success in providing consensus-based advice to the BLM. These recommendations qualify as one type of successful outcome of a collaborative process and are discussed throughout the results. On the other hand, even when the RACs fail to produce a specific recommendation, discussion of a topic around the RAC table often still results in a more informed decision being made by the BLM.

The evaluation approach used here is divided into process criteria and outcome criteria. This approach was adopted from Innes and Booher, who organize their framework by separating the tangible and intangible effects of the process from the on-the-ground or implementable outcomes of the agreements produced.²⁶² They also maintain that the process of collaboration may or may not lead to implementable outcomes, but the lack of implementable outcomes does not necessarily indicate a failure of the process and therefore each must be evaluated independently.²⁶³ This is especially pertinent in the case of the RACs where the agency has no statutory obligation to use the recommendations and advice

²⁶¹ Ibid: 381.

²⁶² Innes and Booher (1999): 419

²⁶³Ibid: 414.

the RACs provide and there is a limited ability to track what is done with the recommendations once they are provided to the BLM.

The categories utilized within the process tract are: representation and inclusiveness, shared purpose, self-organization and procedural fairness, engagement and empowerment, deliberativeness, and builds consensus. The categories utilized within the outcome tract are: produces agreements, ends stalemates, efficient in costs versus benefits, increases creativity, builds social and political capital, and produces information resources. Definitions for each of the evaluation categories, and key words or phrases used in identifying relevant interview quotes are listed in Table I on the next page. These criteria, definitions and key words have been adopted from a variety of sources including primarily Innes and Booher,²⁶⁴ Leach,²⁶⁵ and McKinney and Field.²⁶⁶ These criteria are used in the following discussion to frame the evaluation of the effectiveness of the RAC institution.

²⁶⁴ Innes and Booher (1999)

²⁶⁵ Leach (2006)

²⁶⁶ McKinney and Field (2008)

Table I: Evaluation Criteria, definition of terms, and key words

Process Criteria	Description	Key Words
Representation and Inclusiveness	Includes representatives of all relevant and significantly different interests. Provides substantial opportunity for public input and incorporates public input in formulating options and decisions.	other interests, diverse interests, perspectives, comments
Shared purpose	Process is driven by a purpose and tasks that are real, and shared by the group. Group is able to identify and prioritize issues collectively.	Common ground, shared values, compromise,
Self-Organization/ Procedural Fairness	Allows participants to decide on ground rules, objectives, tasks, working groups, and discussion topics; and treats all parties equally and respectfully in the establishment of such procedures.	shared development, had my say, felt heard,
Engagement and Empowerment	Engages participants, keeping them at the table, interested and learning through in-depth discussion, drama, humor, and informal interaction. Enables participants to influence the decisions of officials or administrators.	Influenced management, felt empowered, encouraged, gained access,
Deliberativeness	Fosters creative thinking, shared learning, examination of each other's assumptions, identification of common interests, out-of-the-box ideas, and challenges to the status-quo	common interests, understand other perspectives, learned a lot, shared learning
Builds Consensus	Seeks consensus only after discussions have fully explored the issues and interests and significant effort has been made to find creative responses to differences	Consensus, all agreed, we all decided, Collaborative decision
Outcome Criteria	Description	Key Words
Produces Agreements	Produces high-quality agreements (formal recommendations in the RACs case) that are agreed upon by the participants and substantially satisfies their interests.	Came to agreement, provided advice, developed recommendations
Ends Stalemate	Ends stalemate, increases understanding, and results in the implementation of agreed upon projects, activities, or plans.	Overcome conflict, get along, understand each other, respect other perspectives.
Efficient in Costs v. Benefits	Compared favorably with other planning methods in terms of costs and benefits.	time commitments, Efficient process, less costs, beneficial,
Increases Creativity	Produces creative ideas or innovations that would not otherwise be achieved.	Creative results, new ideas, see things they weren't thinking about
Builds Social and Political capital	Builds trust and results in improved working relationships between participants, agencies, and the public. Results in improved ability to be responsive to future change and conflict.	build relationships, understand other points of view, build trust, respect,
Information resources	Produces high-quality information that participants agree upon, understand, and accept. Results in learning and change beyond the group.	Shared knowledge, understand the issues,

Findings

The discussion in this section is organized around the two remaining sub-questions: 1) What enables the RACs to achieve their core purpose? 2) What sustains the RACs over time as a collaborative arrangement instituted by a policy mandate in a federal land management agency? The assumption that the RACs are achieving the core purpose is based on the fact that, with the exception of when the Governor of Wyoming allowed his state's RAC charter to expire in 1997,²⁶⁷ all sixteen Rocky Mountain RAC charters have been continuously renewed every two years since they were established in 1995.

This discussion proceeds by first addressing the preliminary definition of success, have the RACs accomplished their primary goals? Next, the discussion addresses how the RAC participants and agency representatives define success for themselves. Following that, the discussion traces themes identified from the participant interviews through the evaluation framework discussed above. A summary of participant responses and the themes that were identified through those responses is represented in the tables in Appendix III. This discussion relies on quotes from the interviews to highlight key points and contrasting opinions about the ability of the RACs to achieve success, the key benefits realized from participating in the RAC program and some of the challenges the RACs face in accomplishing the stated goals. The interviews are discussed in aggregate and focus on both the similarities and differences in the participant's experiences as well as the successes and challenges that were discussed.

Defining Success

One fundamental way to identify a successful collaborative process is to ask the question: did the group accomplish what they set out to do? Did they accomplish their

²⁶⁷ Olinger(1998): 677.

stated goals?²⁶⁸ In the case of the RACs their most basic goals are explicitly stated in the regulations.²⁶⁹ As discussed in the previous chapter, the two principle requirements developed under Rangeland Reform '94 and codified in the regulations are to: 1) consult with the BLM State Director to develop local standards and guidelines for rangeland health²⁷⁰; and 2) provide advice on, “policy formulation, program planning, decision making, attainment of program objectives, and achievement of improved program coordination and economies in the management of public lands and resources...”²⁷¹

Without exception, the RACs were able to develop and have the Secretary approve local standards and guidelines within the appointed deadline.²⁷² Once the standards and guidelines were approved, many RACs found success by providing advice to the Agency on a variety of issues such as Resource Management Plan alternatives, the siting of energy and mineral development projects, administering the wild horse and burro program, and habitat, rangeland, or riparian restoration projects.²⁷³ The table in Appendix IV highlights many of the official recommendations provided to the BLM by all sixteen of the Rocky Mountain RACs over the past two years.

In addition to this analysis, many of the interview respondents discussed specific recommendations they had helped to formulate during their tenure on the RAC. For example, wild horse and burro management is one issue that affected several of the RACs investigated for this study. Ten of the sixteen RACs had some discussion or provided advice on the management of the wild horse herds such as in Wyoming where, “One of the first

²⁶⁸ Conley and Moote (2003): 377.

²⁶⁹ 43 CFR §§ 1784.0 – 1784.6-2

²⁷⁰ 43 CFR § 4180.2(a)

²⁷¹ 43 CFR § 1784.0-6

²⁷² Olinger (1998): 678. The Record of Decision for each state district or field office’s Standards and Guidelines can be found by searching “standards and guidelines” in each BLM District website.

²⁷³ Synthesis of Meeting Minutes from past two years of Rocky Mountain RACs; on file with the author. See also: Appendix IV for table highlighting recommendations provided by all sixteen Rocky Mountain RACs in the past two years.

things we tried to do was put down on paper what we thought about it...Then every time there is a new chapter in the development or litigation over management of wild horses, we go back to that letter..."²⁷⁴

The recent national level discussions around sage grouse recovery and possible listing on the Endangered Species List transcended nearly all the RACs investigated for this study. Eleven of the sixteen RACs had a discussion regarding sage grouse management detailed in their meeting minutes during the past two years.²⁷⁵ Many of the discussions persisted through multiple meetings as the Agency kept the RAC up to date on or included them in the discussions of amending resource management plans as a result of the proposed listing. As one respondent discussed:

*The Sage Grouse issues of course is huge in the West and we wrote a letter to the State BLM Director as a RAC,...how they and the Forest Service needed to work together and work with the State of Utah and find something that would satisfy most of the stakeholders...and I thought we got through that in pretty good shape, and came up with a pretty good letter that was sent on to the State BLM , a recommendation letter explaining the feelings of the RAC.*²⁷⁶

Resource and travel management planning are also topics that equally affect all the RACs. Fourteen of the sixteen RACs had a discussion around Resource Management Planning, Travel Management Planning, or both over the past two years.²⁷⁷ In fact, at the time of the document review, ten sub-RACs were involved in assisting with some form of resource or travel management planning.²⁷⁸ In addition, RACs help the BLM discuss specific issues that arise in the process of resource and travel management planning such as where to allow or restrict motorized activity, trail development, recreational shooting, forest management activities, and oil and gas leasing.

²⁷⁴ Wyoming RAC member comment, on file with the Author

²⁷⁵ Synthesis of RAC meeting minutes, on file with the Author

²⁷⁶ Utah RAC member comment, on file with the Author

²⁷⁷ Synthesis of RAC meeting minutes, on file with the Author

²⁷⁸ Ibid

These issues represent merely the tip of the iceberg of the “full array of multiple-use management issues” that exists on BLM managed public lands. The RACs have the ability to engage these issues and topics at a variety of scales from listening to updates from field managers, having deliberative discussions within the group, or forming sub-committees to facilitate a more in-depth exploration of the issue. One thing that is apparent from this synthesis is that even where the RACs do not advance a formal recommendation to the State Director or the Secretary, the discussions help the BLM to understand the effects their proposed actions have on the broad cross-section of the public prior to making a final decision.

In addition to analyzing how the RACs measure up to a definition of success imposed upon them from the outside, it is equally important to understand how the RAC participants define success for themselves. In many of the interviews, success was determined by the ability, after deliberating from all sides of the issue, to build a consensus recommendation or position on a topic.

[Success is] an ability to present options in an open manner and have discussions on it...²⁷⁹

[The RAC] is a broad cross section [of interests]...So, to bring all of those people together and come up with a recommendation letter...I think that's pretty good success for a group that's that broad and that diverse. Everybody knows that something needs to be done, the question is just how much...I think overall in trying to come up with position statements and recommendation letters to our state BLM agency that they could put in an EIS, I think that speaks volumes for a group of citizens that have varied interests.²⁸⁰

I feel like when I talk to the managers or the BLM folks that we're advising, they always seem to leave the conversation thinking, "wow, this is really great information, I'm really glad we have this opportunity." So, when we help the managers see

²⁷⁹ Utah RAC member quote, on file with the Author

²⁸⁰ Utah RAC member quote, on file with the Author

*something they weren't really considering and if that was a way to save, to keep a process valuable for the public, I think that's a really good thing.*²⁸¹

For these individuals, success was broadly defined in terms of both the process and outcome criteria. The process involves choosing a topic to address, deliberately discussing that topic from the multiple viewpoints, and building a consensus view towards resolving the issue. The outcome consists of producing an agreed upon recommendation and providing that recommendation as advice for the BLM to consider. Whether that advice appreciably influences the management decision is a point of contention that will emerge later in the discussion.

The BLM had a similar definition of success. For the Agency, success is largely determined by the RAC discussing an issue from all sides and deciding upon a consensus recommendation:

*Success is being able to present multiple views but be able to discuss them and be flexible enough to hear other points of views.*²⁸²

*I define success when we identify together the things we need advice, and the RAC gets to the place where they feel comfortable giving us that advice...they will usually craft a letter from the entire body that they will send to the state director, and they will provide input on the solution that we have asked them for, or they will provide alternatives for us to pursue.*²⁸³

*How I define success of the RAC is that the RAC is wanting to take up issues or provide advice to the BLM, and they actually provide that advice and tackle those issues...They may be telling us stuff we don't want to hear, and to me that is not a bad thing.*²⁸⁴

These last two definitions highlight an interesting point in that, to these individuals, success means *identifying issues together*, and that *the RAC wants to take up issues*. These phrases imply that the RAC membership must feel empowered to identify the topics they discuss and define their mission with some level of independence. Issues of empowerment with the

²⁸¹ Colorado RAC member quote, on file with the Author

²⁸² BLM Representative quote, on file with the Author.

²⁸³ BLM Representative quote, on file with the Author

²⁸⁴ BLM representative quote, on file with the Author.

RAC membership will come up later in the discussion, but for now, it is instructive to remember that these Agency staff members view an engaged and empowered RAC, at least in part, necessary for success.

For some members of the RACs, success has not been achieved unless the recommendations result in on-the-ground action or the implementation of a policy directive.

Success is getting all the information on an issue, then having a good discussion on how do we want to advise the state director, then having them take that advice... We can do our due diligence of study and debate and synthesizing concepts and writing a good recommendation, then one might say the RACs been successful, we did our job. But to ultimately succeed, [the recommendation] needs to be put in place.²⁸⁵

For individuals with this point of view, success is more narrowly defined and requires on-the-ground action or policy change. The RACs success, then, is ultimately determined by the BLM who must use the recommendations to augment a policy or affect management in some way. This definition creates a tension with the fact that the RACs are explicitly authorized to function in an advisory capacity only and do not hold any binding authority or enforcement mechanism over the agency.²⁸⁶ The BLM's obligation to retain final decision making authority over management actions coupled with the fact that the RACs have no express assurance that their recommendations will be implemented left some RAC members feeling that their advice was not being used by the BLM to the extent that they hoped. As one RAC member lamented, "We developed a position paper and gave it to [the State Director], and we might as well have made it into a paper airplane and pitched it out the window, because they don't use it. Because it's from this broad based group and not a

²⁸⁵ Wyoming RAC member quote, on file with the Author

²⁸⁶ 43 CFR § 1784.5-1 states: "The function of an advisory committee is solely advisory, and recommendations shall be made only to the authorized representative specified in its charter. Determinations of actions to be taken on the reports and recommendations of a committee shall be made only by the Secretary or the designated Federal officer."

greedy group of rape the land ranchers, I think it was very powerful, but it's not being used."²⁸⁷

Interestingly, despite the provision allowing a RAC to appeal directly to the Secretary if they feel their advice is being arbitrarily ignored by the State Director, not a single respondent could identify a time when that had been utilized. One RAC member specifically discussed this:

...a few of us recognize that [appealing directly to the Secretary is] a possible next step. That is also a pretty unpopular. You know for Wyoming to go to the Feds, the state office is enough of the feds, so to go to the Secretary, even among the folks who agree that this [recommendation] should be implemented, it would be hard to get them to agree that that is the next step. We're all about fixing it at the local level, we can't go cry to DC.²⁸⁸

However, even with this provision, most of the RAC members understand the fine line the agency walks in not abdicating their authority over final decisions:

In my experience they listen really well, but they can't always go there. You know, a rancher wants livestock to be able to go everywhere and water developments, energy developers want energy development, wilderness advocates want wilderness – you know what I'm getting at – mountain bikers want mountain bike trails. So even if there is a recommendation that is supportive of one of those interests, it doesn't mean that the BLM can implement it. So I think if the RAC is doing a good job, then everyone's a little happy and everyone's a little pissed off.²⁸⁹

The few frustrations expressed around implementing the recommendations don't detract from a general belief that the process is valuable. Almost every RAC member and BLM representative interviewed agreed that the RACs were a successful experiment in integrating a collaborative public body into public land and resource management. Only one interviewee explicitly warned against using the RAC as a model for future collaborative process design citing limitations on the RAC's on-the-ground effectiveness, "don't use the

²⁸⁷ Wyoming RAC member comment, on file with the Author.

²⁸⁸ Wyoming RAC member comment, on file with the Author.

²⁸⁹ Colorado RAC member comment, on file with the Author.

RAC because of the Constraints of the RAC. Formally the RAC is to give advice. Now Forest Service RACs have the ability to put together natural resource projects, fund them, it's a different set of rules as I understand. BLM RACS, as this one is, are chartered only for advice."²⁹⁰

What enables the RACs to achieve their core purpose?

As discussed in chapter three, the major policy elements of Rangeland Reform '94 were intended to create a national requirement to manage the public rangelands to improve ecological health and facilitate their recovery, and to maintain opportunities for long-term sustainable development.²⁹¹ If the RACs had not succeeded in their first task of formulating their own standards and guidelines, the federal fallback standards would have been implemented and the likelihood of the RAC charters being reauthorized would have been minimal. As it was, the RACs were able work with the BLM State District managers to submit and have the Secretary of the Interior approve local standards and guidelines within the allotted timeframe.²⁹² Since that time they have moved on to addressing the full array of other multiple-use management concerns. However, absent the clear statutory mandate that directed the development of the standards and guidelines for rangeland health, some RACs struggled to find a clear sense of direction.

The RACs were originally created to help the bureau come up with some rangeland health standards. So that was a very definite charge, we were asking for a very specific product. And when you have direction that clear, it's really a lot easier to come up with a good product. I think since that effort was completed, both the RAC and the BLM has sometimes struggled to be very clear as to what their charge was.²⁹³

²⁹⁰ Wyoming RAC member comment, on file with the Author.

²⁹¹ Rangeland Reform FEIS (1994): 3, 8. "A major policy element of the reform package consists of national requirements and guiding principles for the local development of state or regional standards and guidelines for livestock grazing on BLM-administered lands. Fallback standards and guidelines in the Preferred Alternative would take effect if regional standards and guidelines have not been developed within 18 months."

²⁹² Olinger (1998): 678.

²⁹³ BLM Representative quote, on file with the Author.

I think you need a little bit of a sense of mission when you put these collaborative groups together. Perhaps if the BLM could produce a bit more sense of mission, and perhaps that's really the option of the State Director...but if the State Director was motivated to use that RAC ...he or she could find some things that not only meets his or her needs but also takes advantage of the various skills and informational levels that that appointed RAC brings.²⁹⁴

On the other hand, not having a prescribed agenda allows the RACs a degree of autonomy and flexibility to discuss topics and management problems that are timely, of interest to the group, and of most pressing need for the BLM.

Process Criteria Themes

Probing a little deeper into what enables the RACs to fulfill their regulatory requirements illuminates four main process themes that simultaneously enable success and create challenges. The themes can be categorized into 1) Issues of representation and inclusiveness, 2) Issues of self-organization and procedural fairness, 3) issues of deliberativeness, and 4) issues of building consensus. Each theme is discussed in detail below.

Representation and Inclusiveness

Two critical principles for successful collaboration are interest representation and process inclusiveness. Representation refers to a process that includes representatives of all relevant and significantly different interests,²⁹⁵ while inclusiveness refers to a process that is publically accessible and places few formal restrictions on participation.²⁹⁶ Public engagement processes tend to negotiate these values along a continuum. A representative process is modeled on the concept of representative democracy whereby selected members represent an interest group and are empowered to speak on behalf of that interest. An inclusive process much more resembles pure participatory democracy and offers the

²⁹⁴ Utah RAC member quote, on file with the Author

²⁹⁵ Innes and Booher (1999): 419.

²⁹⁶ Leach (2006): 101.

opportunity for everyone who has an interest to participate freely and equally. Often, as pointed out by Leach, a tension exists between a representative process that balances an equal number of opposing interests and an inclusive process that places few restrictions on involvement.²⁹⁷ He suggests,

*Restricting access to a select group of stakeholders invariably raises doubts about legitimacy. If an agency with a stake in the issue selected the participants, did the agency try to influence the outcomes of the process by excluding the agency's harshest critics? On the other hand, a perfectly inclusive process can jeopardize representativeness if it creates an imbalance in the number of individuals representing each major faction.*²⁹⁸

One of the challenges the BLM faces with the RAC program, which is an inherently representative group, is balancing the limited access by creating opportunities for decisions to be informed by the views of the public the RAC purports to represent. They navigate this tension in a variety of ways. First, each RAC meeting has a designated public comment period that provides an opportunity for the public-at-large to make their views known on the topics or issues being discussed by the RAC. Second, the RAC members, who are members of the public themselves, are expected to communicate with the interest group they have been appointed to represent to get feedback on the issues the RAC discusses. Third, the RACs often form sub-RACs (also known as subcommittees or sub-groups) to directly include members of the public in gathering information from local residents and resource experts, discussing possible solution options, and formulating recommendations on complex problems and management issues.

The public comment periods must be incorporated into the agenda and published as part of the Federal Register notice announcing each RAC meeting at least thirty days prior to the meeting date. According to the regulations, "Notices shall set forth meeting locations,

²⁹⁷ Ibid

²⁹⁸ Ibid

topics or issues to be discussed, and times and places for the public to be heard.”²⁹⁹

Generally, the public comment periods are well-organized and designed to allow the public at-large to make their feelings known about the issues being discussed by the RAC. As one BLM representative discussed, “The public is not allowed to speak until the public comment period which is set up and defined in our Federal Register notice. That is their opportunity to make a presentation to the RAC and interact with the RAC members. Other than that public comment period, they are absolutely allowed to be there, to observe what’s going on, but they cannot participate.”³⁰⁰

As noted, public comments are restricted to the times designated in the agenda and adherence to that policy is typically enforced by the RAC Chairperson. This allows the RAC to efficiently conduct its business and prevents the conversation from devolving into a chaotic public hearing. The public comment period is designed to elicit the public views on the topics being discussed to assist the RAC in creating a more informed recommendation to the BLM. While some RACs have managed to engage the public through the public comment periods quite effectively, others have been challenged by a “...public comment period [that] is inevitably empty...”³⁰¹

As a representative body of the public’s interests, the RAC sees itself as a crucial conduit for public input on BLM management issues. In the eyes of some RAC members, the conversation is supposed to be, “...between the RAC members, who are representing the public and the BLM... [There is] opportunity for public input at every meeting...but it’s not really designed to solicit public input because the RAC members themselves are supposed

²⁹⁹ 43 CFR § 1784.4-2(b)

³⁰⁰ BLM representative comment, on file with the Author.

³⁰¹ Wyoming RAC member comment, on file with the Author.

to be the public input...If every one of those was a public meeting, you would just get distracted”³⁰²

Occasionally, the BLM will solicit outside groups or members of the public who have particular expertise on a topic to give presentations to the RAC. These types of presentations are another way for the RAC to interact with the public on specific issues. The presentations also encapsulate a device for gathering shared and agreed upon information resources, and help the RAC understand the social, political, ecologic and economic implications of the issue.

We’ve had for example Friends of the Wild Mustangs come and present to the RAC. It wasn’t during the public comment periods...and to have those people come in and advise the Resource Advisory Council on some of those issues is very helpful...³⁰³

[Before becoming a member] I was actually asked by the BLM to give presentations to the RAC on grazing management. That was kind of my first exposure to the BLM RAC and how they operate...³⁰⁴

The second method for involving the public is by engaging the constituents of the interest groups the RAC members are appointed to represent. The RACs were developed based on a model of representative democracy and RAC members are expected to regularly communicate with their constituents. Ideally, the RAC members are approaching their communities for feedback and input on the issues the RAC is discussing. If there are particular issues that concern an interest group or member of the public, they can also go through their RAC representative to get that issue put on the meeting agenda.

Ideally what those members should be doing is interacting with the members of the interest group they represent...they should be getting feedback...that is the interaction that they would have with the public.³⁰⁵

³⁰² Wyoming RAC member comment, on file with the Author.

³⁰³ BLM Representative comment, on file with the Author

³⁰⁴ Utah RAC member comment, on file with the Author

³⁰⁵ BLM representative comment, on file with the Author.

I think [the RAC is] very grass-rootsey. Each RAC member represents a public constituency, so that RAC member is getting feedback and information and there is a two-way communication with those constituents that they represent. [That's] the representative democracy piece.³⁰⁶

Most of the RAC members suggested that engaging with their constituents is a substantial part of their job as a RAC member. Many insisted that communicating with the people in their peer circles helps them gain a more nuanced perception of the issue, the values that are critical to represent on that issue, and helps them in how they approach the discussions. Ultimately, as one RAC member discussed, the perspective of these engaged constituencies influences the advice the RAC develops, “We do have organizations that represent those groups that I communicate with about a variety of things, but I also send along to them activities of our BLM RAC to ask for their input.”³⁰⁷

Finally, the RACs often form sub-RACs when more input from the public is needed on particularly complex location or issue-specific topics. Sub-RACs enable the RAC to dive deeper into an issue by creating a committee that resembles the RAC’s diverse representation of interests, but that is temporary and only deals with one particular issue. The most successful sub-RACs usually are made up of members of the public who are engaged in or experts on the issue being discussed. They have the flexibility and autonomy to hold public meetings, meet more frequently than the full-RAC, and take adequate time and space to thoroughly investigate the issue in question. Sub-RACs may gather and synthesize new information about an issue, discuss solution options, and ultimately make a recommendation to the full RAC. In turn, the full RAC retains the responsibility for approving the final recommendation and offering it as advice to the State Director. Alternatively, they can modify it themselves or refer it back to the sub-RAC for further consideration and refinement.

³⁰⁶ Colorado RAC member comment, on file with the Author

³⁰⁷ Western Montana RAC member comment, on file with the Author.

Essentially [with sub-RACs] we have a need to get the actual people from that field office who are using the land to advise us on how we should be advising the BLM...So the key there, is working with... who might be interested and who might be able to contribute to the process valuably and then making sure we, the RAC, are giving the sub-RAC the freedom to make recommendations as they see fit, that we have a RAC liaison that brings that information back to the RAC and says this is what the Sub-RAC said, and then we can decide what to do with that information...³⁰⁸

Sub-RACs have been used by all the RACs studied in this project.³⁰⁹ In one way or another, every participant interviewed suggested that sub-RACs are an innovative tool that the RACs can use to engage the public-at-large, and formulate recommendations that are more informed by local perspectives, responsive to local conditions, and have broad public support.

The diversity of interests that sit on the RAC and the quality of people representing those interests were two of the most consistently cited factors enabling the RACs to have high-quality discussions and consistently develop balanced advice for the BLM. Achieving a diversity of interests is facilitated primarily by the regulatory requirements guiding the RACs.³¹⁰ However, the BLM representatives unanimously acknowledged that the RACs legitimacy and ultimate success depends on a diverse and inclusive process that encourages its members to challenge each other and the agency.

We are very thoughtful and deliberate when we consider[new RAC members], and it's not that we, we do not want people who think the same way we do...what we are looking for are people with a diverse background and people who have a track record of being able to work collaboratively.³¹¹

³⁰⁸ Colorado RAC member quote, on file with the Author

³⁰⁹ Synthesis of RAC meeting minutes, on file with the author.

³¹⁰ 43 CFR § 1784.2-1(a) states: "Each advisory committee shall be structured to provide fair membership balance, both geographic and interest specific, in terms of the functions to be performed and points of view to be represented." Further, § 1784.6-1(c) provides the framework and makeup of the three interest categories.

³¹¹ BLM representative quote, on file with the Author.

You absolutely need to get people who aren't always going to agree with you and just don't think that everything that the agency going to do is going to be correct...we need that input from those people who are willing to disagree, and do so respectfully³¹²

Representation, as noted by the analytical framework definition, means including the diverse perspectives of all interests affected by the issue in the discussion. Clearly that is an important factor. However, both the RAC members and agency representatives strongly agreed that not only does the group need the diversity of interests, but they need people who embody a willingness to sit at the table, set aside their differences, and work to find solutions to management problems. Nearly all of the interviewees suggested representation of interests by those willing to collaborate is an important factor in achieving success. This is not to say that in nominating members the BLM looks for people who always agree with what the agency proposes. Indeed, the ideal RAC members are those who are also able to respectfully disagree but who also have a willingness to come to the table with a collaborative and solution oriented frame of mind.

I think in part it's [successful] because of the people the BLM selects to be on this committee... I've always said the trick to having committees that work is to pick people who are open minded, and who are willing to work with interests that they don't always agree with or understand...the BLM has done an excellent job in selecting the RAC members...I know in part the BLM picks these people for open mindedness. We have an amazing ability to work together; that's why I've stayed. Broad interests, people are willing to work together, and I've learned a whole lot.³¹³

When we look at public involvement you have to look at it like a spectrum...you have very extreme people who are never going to be involved, never going to be encouraged by a resource advisory council, and we're never going to reach those people. And then you got on the other end of the spectrum is the people who are going to be involved in everything. And so where we're targeting is people [in the middle], and I say targeting because that is where we can develop those relationships and make good collaborative decisions that affect the future of how we manage public land.³¹⁴

³¹² BLM representative quote, on file with the Author.

³¹³ Western MT RAC member quote, on file with the Author.

³¹⁴ BLM representative comment, on file with the Author.

One tension that remains around representation is the consideration of the stakeholders who focus on other methods such as litigation and appeals to see their interests satisfied. In selecting members who are willing to come to the table with a collaborative mindset, the BLM inevitably limits the scope of interest group involvement. Those who are critical of community-based, consensus-building processes as a legitimate forum for making natural resource management decisions are invariably not going to volunteer for participation in a RAC. This is difficult, as a collaborative process cannot be all things to all people, and those who are not willing to collaborate will inherently be left behind. The BLM navigates this tension by adhering to NEPA for any major actions it eventually takes.

Finally, the structural framework dictated through the regulations and by FACA was cited by several interviewees as a distinguishing feature of the RAC that enables success. Organizing under FACA requires a charter to be approved and signed by the head of the agency to whom the committee reports.³¹⁵ The charter provides legitimacy for the group but also articulates clear guidelines regarding scope of activity, meeting requirements, transparency and accessibility that ensures the diversity of interests is represented and the public has equal access to participate in the process.³¹⁶

I think it's incredibly helpful to have those constraints [FACA]. It's helpful to have that blueprint that we're free to operate under so that we know that we're following the policies that American public ultimately wanted to see in action or that has been indicated to us by the President or by Congress...By following those rigid guidelines we are being good stewards of the public trust that is given to us. It's also a great resource whenever we have questions about how to be deal with certain issues, it helps us look back and understand direction specifically on issues where we don't deal with that often.³¹⁷

³¹⁵ 5 USC § 9(c)

³¹⁶ Ibid.

³¹⁷ BLM representative comment, on file with the Author.

Unfortunately, the structure sometimes reduces the efficiency of the RAC. The number one challenge discussed by both the RAC members and the Agency representatives was the difficulty in getting new members appointed to the RAC. The problems discussed by RAC participants follow two divergent paths. First, RAC members and Agency representatives discussed the difficulties in getting high-quality representatives to apply for vacant positions. Second, they discussed the length of time it takes to get applicants through the appointment process.

In soliciting new applicants, both the RAC members and the BLM representatives discussed having difficulty finding adequate numbers of candidates to fill the vacancies on the committee. As one Agency representative suggested, "At times it has [been a challenge to find new members]...if we don't have a high enough number of applicants...the Department of Interior will dictate that we run it again for applicants. They want to see large enough numbers, they want to be sure they have enough applicants to select from..."³¹⁸

Getting new members acclimated to the issues once the appointments are made also poses a challenge. Enabling informed discussions at the RAC meetings requires all members are acquainted with the issues to satisfactorily contribute to the conversation. Some RAC members feel like by the time they become familiar enough with the issues to contribute productively to the discussion, their first term is up, as discussed, "...as a RAC member, coming in, and there is so much turn over...That's a real challenge, when there's a long lasting issue, the learning curve, and getting up to speed to really feel valuable. I've heard a couple RAC members say, "yeah you spend your first two years figuring out what's happening and then your term is up..."³¹⁹

³¹⁸ BLM representative comment, On file with the author

³¹⁹ Colorado RAC member comment, On file with the author

A second common frustration expressed about membership turnover was related to the appointment process. According to many of the RAC members and the Agency representatives, the time it takes to get through the appointment process often inhibits the ability of the RAC to conduct its business.

The lack of timely appointments by the Secretary of Interior [is a challenge]...it causes is the inability of the RAC to be effective...there are timely issues that need to be dealt with. And for whatever reason...the appointments weren't timely a year ago, and now we're facing the same situation.... the BLM has put out a notice for this year's applications, and they still haven't heard about last years.³²⁰

What's really sad is now we are announcing for filling our vacancies for those positions that are set to expire in September of 2015, and I still haven't got my 2014's filled yet. So I may not be having a council because I won't have enough to make a quorum.³²¹

The unfortunate effect of the inefficiencies of the appointment process, apart from preventing the RAC from conducting business, is that it leaves many of the RAC members feeling like the program is not a priority for the Agency.

The appointments could, should [be made faster] if they made it a priority. I think at the local field office level it's a priority. I think they seem to really value the RAC's advice. But in the DC Office, State Office? I don't know what it is; maybe they have more pressing issues or something.³²²

RAC members discussed several possible solutions to help overcome these barriers and improve the efficiency of the RAC. First, a program of public education to inform what the RAC is, what it does, the value it adds to public land management, and the influence RAC members can have on management decisions could help to engage a broader base of engaged members of the public from which to draw. Such a program could dramatically improve both the visibility and the relevance of the RACs in the eyes of the public. RAC members also suggested two policy changes that could improve the appointment process.

³²⁰ Western Montana RAC member comment, on file with the Author.

³²¹ BLM representative comment, on file with the Author.

³²² Colorado RAC Member comment, on file with the Author.

First, entrusting the appointments to the Director of the BLM rather than the Secretary of the Interior could speed up the process by keeping the decisions in house while still ensuring a level of Federal oversight. Second, allowing RAC members to continue sitting on the committee after their terms expire until a replacement is appointed would allow the RACs to continue meeting and conducting business while they wait for new members.

Self-Organization and Procedural Fairness

According to Innes and Booher, a successful collaborative process is one that is, “...self-organized and evolving, good at gathering information from the environment, and effective at making connections among participants.”³²³ Facilitating the ability of participants to decide on ground rules and discussion topics, and develop objectives, tasks and working groups creates a legitimate process that is accepted by the group. Treating all parties equally, respectfully and impartially in the establishment of discussion and decision making procedures is one of the bedrock principles of democratic theory.³²⁴ The ground rules and operating procedures of the RACs are discussed in each of their charters and standard operating procedure (SOP) documents.³²⁵ The representation and equality of the membership, the requirements for public notice and features of public participation discussed above are prescribed by the regulations promulgated under Rangeland Reform '94.³²⁶ The particular discussion topics, tasks and working groups are typically decided upon collaboratively by the agency and the RAC members.

The discussion topics are driven by the meeting's agenda, which is required to be published in the Federal Register and distributed to local media at least thirty days prior to

³²³ Innes and Booher (1999): 418.

³²⁴ Leach (2006): 102.

³²⁵ Synthesis of RAC Charters and SOPs; on file with the author.

³²⁶ See generally 43 CFR § 1784

each meeting.³²⁷ The most effective RACs develop their agendas by synthesizing the interests of the RAC members with the needs of the agency.

...it's kind of a collaborative process for putting agenda items on for the next meeting. We get feedback from the BLM on what they're working on, what they think we might be interested in, but we also self-identify topics that we either want to discuss and make recommendations on, or that we want to learn more about...There's themes – you know grazing, energy development, wild horses, recreation are all reoccurring topics for our RAC. ³²⁸

At the same time, the BLM and the RACs recognize the need to limit the number of topics discussed at each meeting to ensure a robust rather than cursory exploration of each issue. Prioritizing the ever-expanding list of discussion topics and deciding on which should be discussed at each meeting is a constant task that usually falls to the RAC chairperson and the Agency Coordinator. The challenge is scheduling and addressing the issues that are top priorities for the group while allowing space to address unforeseen and unanticipated issues.

*We share with [the RAC] the things that we're struggling with...and the RAC members list the things they think are really important, and then we try to marry the two lists and then prioritize them. One of the dangers is that if you take on too many different topics, you'll never get to a result on any of them...we've tried in the last year or so, is to try to focus each session on one particular set of issues.*³²⁹

One challenge the RACs face is ensuring all members are equally engaged on a topic. However, this may be a simple byproduct of cogitating on, “...the full array of ecosystem and multiple-use issues associated with BLM-administered public lands.”³³⁰

Sometimes the RAC can devolve into one side of an issue against another, and if you don't have a dog in that fight, you're kind of just sitting on the sidelines to a certain degree. I guess the challenging thing, is when those issues come up and there are two

³²⁷ 43 CFR § 1784.4-2

³²⁸ Colorado RAC member comment, on file with the Author

³²⁹ BLM representative comment, on file with the Author.

³³⁰ Rangeland Reform '94: 18.

*dug-in perspectives or sides to it, it often leaves many of the other RAC members in a place where they're struggling to figure out how to participate.*³³¹

Often, discussions will transcend multiple meetings.³³² Typically, no recommendations are made until a thorough deliberation of the subject accounts for all the views within the group, the thoughts and opinions of the resource experts, public input is weighed, and the history of recommendations or advice that have already been given on that or similar topics is analyzed. As one RAC member put it, "It's usually a multiple meeting process, in which we get information, we revisit what past RACs have done on the issue if it's something that's been reoccurring and if there is a sub-RAC that needs to be put in place then there is time that is allowed for that and then the sub-RAC will come back and advise the RAC so that we can then advise the BLM."³³³

Who participates in designing the agenda poses another challenge that was discussed by some of the RAC members interviewed. Two of the RAC groups commented that the agenda was used as a mechanism for the agency to control or restrict what the RAC discusses. RAC members discussed feeling frustrated that they were not empowered by the agency to design their own agenda, "...for a while we didn't seem to have an agenda that anyone was interested in polling us in...our mission was not clear, and we really weren't doing anything in a mission oriented direction."³³⁴ For these two groups, the agenda topics dictated to them by the BLM were said to be, "...usually pretty banal."³³⁵

There's a sense that the Wyoming BLM didn't want the RAC...I think they express that hesitation by trying to constrain some of what the RAC does. We're trying to figure out if, or how we can try to write our own agenda. The chair seems to think that the RAC guidelines say that the RAC doesn't write its own agenda, we just approve what they give us. Most of us agree that if we could design our own agenda that would address

³³¹ Colorado RAC member comment, on file with the Author.

³³² Synthesis of RAC meeting minutes; on file with the Author.

³³³ Colorado RAC member comment, on file with the author.

³³⁴ Utah RAC member comment, on file with the author.

³³⁵ Wyoming RAC member comment, on file with the author.

*what we want to address and gather information together, that that would be motivating. We would create more buy-in in the meetings, and create a feeling like we were doing something at the meetings.*³³⁶

Selin and Chavez point out that, “The institutional culture within agencies often hinders collaboration.”³³⁷ Leach expands upon this by explaining, “In relatively traditional venues, such as NEPA (National Environmental Policy Act) scoping meetings, the public becomes involved only after a lead agency has invested large amounts of time and money drafting a proposal. Considering these sunk costs, agencies may be less interested in revising or replacing proposals than in trying to win public support or acquiescence.”³³⁸ Probing the notions of institutional culture and resource investments in developing an agency agenda is especially poignant in the Wyoming case, where the RAC was disbanded shortly after implementation of the Standards and Guidelines for rangeland management and has only been reconstituted in the past five years. The Wyoming RAC seems to struggle the most with issues of membership empowerment and engagement.

Other RACs have navigated issues of empowerment and engagement very well. Generally, the more freedom the RAC members have to design their own agenda, develop tasks, working groups, and set discussion topics, the more empowered and engaged the membership seems to be. Conversely, if the agenda is used, as the above RAC member says, “...to constrain some of what the RAC does...” the members leave feeling disempowered and as if, “...we sit through a lot of fun presentations with a lot of information, but we never chew on that information, analyze it, come up with something we can do about it...”³³⁹

Consistent with the principles of democratic governance, an effective process is one that increases opportunities for self-organization and empowers its membership to design

³³⁶ Wyoming RAC member comment, on file with the Author.

³³⁷ Selin and Chavez (1995): 193

³³⁸ Leach (2006): 105

³³⁹ Wyoming RAC member interview, on file with the author.

objectives, tasks, work groups, discussion topics and procedures.³⁴⁰ Leach discusses empowerment as one of his seven components of democratic governance, noting that an empowered process, “would involve the public at the earliest stages, long before a full-fledged project proposal has been announced, thereby allowing stakeholders to signal their concerns when the issues are still being defined.”³⁴¹ Moote, McClaran, and Chickering agree stating, “The participatory democracy approach is said to improve decision implementation by resolving conflicts during the planning process, rather than delaying implementation of completed plans while decisions are reviewed through appeals and adjudication.”³⁴² In this case, involving the RAC membership early in the process of designing agenda items, projects, and discussion topics that address their concerns and the problems they are hearing from the interests they represent would be a measure of an empowered RAC process. The greater degree a RAC empowers its membership to be involved in all aspects of the agenda setting and discussion process, the more successful they might be said to be. It is difficult to have an influence on decisions when the group doesn’t feel empowered to by the process.

Deliberativeness

The extent that a collaborative process fosters creative thinking, shared learning, examination of each other’s assumptions, identification of common interests, development of out-of-the-box ideas, and challenges to the status-quo is a function of its *deliberativeness*. Leach offers three measurable factors that contribute to a deliberative group process. The first measure is the amount of effort devoted to mutual education of the group’s membership. Second, Leach asks to what extent is joint fact finding used as a tool to

³⁴⁰ Innes and Booher (1999): 419.

³⁴¹ Leach (2006): 105

³⁴² Margaret A. Moote, Mitchel P. McClaran, Donna K. Chickering. “Theory in Practice: Applying Participatory Democracy Theory to Public Land Planning.” *Environmental Management*; Vol. 21, No. 6 (1997): 878

collectively define the problem and either synthesize existing information or generate new information that helps the group to develop solutions. The degree to which a group is able to collectively define and synthesize information around a problem or topic is a measure of deliberativeness. Leach's final measure of deliberativeness is the ability of a group to build trust and maintain a culture of civility and respect.³⁴³

By engaging the diversity of interests in the process of forming recommendations, the RACs soon begin to exhibit the first measure of deliberativeness: the members immediately educate each other on their own perspectives of the issues. Indeed, Leech says, one way to increase deliberativeness is to, "engage in a period of mutual education and discovery prior to any negotiation over substantive commitments or compromises."³⁴⁴ The BLM recognizes the importance of this mutual education process and often witnesses a shift in RAC member attitudes early on.

I think what's most rewarding is to have a group you feel you can share with pretty honestly, and they, they began to see that it wasn't that easy, that their perspective was one piece of a very large and much more complex puzzle. They became a very valuable member of the RAC because of their background but also because they kind of grew and changed a little bit in the process.³⁴⁵

Several of the ways in which the RACs educate themselves have previously been discussed. The Sub-RACs often research the issue, and talk with experts or local people affected by the issue prior to making a recommendation to the RAC. The BLM often invites resource specialists, members of the public, or outside experts to give presentations to the RAC during one of their regular meetings. The RAC members also educate each other from their differing perspectives on the issue. The RAC is an institutional structure that has been constructed by a regulatory mandate for the express purpose of gathering a diverse group

³⁴³ Leach (2006): 103.

³⁴⁴ Ibid

³⁴⁵ BLM representative comment, on file with the Author.

of interests to engage in shared learning about problematic management issues and build consensus recommendations on those issues. The discussions that occur inevitably compel the RAC members to learn about each other's perspectives and views on the issues they discuss. Naturally, if they are open to the process, they begin to understand how those other perspectives contribute to the complexity of resource management decisions. By learning about each other's perspectives together, they begin to examine their own and each other's assumptions.

I felt like we did a really good job helping the recreation and energy folks understand the issues with grazing, and in the same turn, the recreation and energy folks educated us old cowboys too.³⁴⁶

Being able to get out and really understand the cross section and how these different land management mandates intersect with each other and how the different uses intersect with each other that is really valuable ³⁴⁷

In turn, the RAC members also begin to understand the challenges facing the BLM in making management decisions.

As a person who is just naturally prone to complain about some of the things that the government does sometimes, and then to gain an appreciation for the quality of the people who work for the federal government, you get a better appreciation for the charge that they have. They do the best they can with what they have to work with. I have a better appreciation for the difficulty of the job they have and hopefully I can give them some advice or we can give them some advice as to how it can go a little easier.³⁴⁸

By having deliberate conversations about topics that account for and respect the diverse interests represented by the RAC members, a common understanding begins to be built about the issue. Shared learning takes place when new information is synthesized from the working groups, conversations with resource specialists, outside members of the public and agreed upon by the RAC members. Here again, the sub-RACs play an important role. When

³⁴⁶ Utah RAC member comment, on file with the Author.

³⁴⁷ Colorado RAC member comment, on file with the Author.

³⁴⁸ Wyoming RAC member comment, on file with the Author.

collectively agreed upon information is used to form a recommendation, creative solutions to complex problems are often found.

Shared learning, the process of building a common understanding around complex issues, builds a social bond that transcends the formation of recommendations and contributes to a sense of accomplishment and empowerment within the group. Witnessed by one RAC member, “I also feel like whenever we take on a new subject...we go from not knowing really anything about it to understanding a great deal about the project. I think there is a strong sense of accomplishment around learning; us collectively learning”³⁴⁹ The notion of the “social bond” is discussed in public policy literature as being a necessary component of effective problem solving, resting on the theory that, “fostering more or better discourse around any given issue will lead to agreement about key values and in doing so, create the social bond necessary for the problem to be resolved.”³⁵⁰ The implication is, the more participants in a consensus building process build a social bond by learning about each other’s values, the easier it becomes to find agreement:

*The more that we can learn from one another and make well thought out, well rounded recommendations to the BLM the better we’re doing.*³⁵¹

*I always said to the group, we’re not always going to agree or disagree but if we’re equally informed we’re going to be closer to agreement than anything else.*³⁵²

Finally, in providing consensus-based recommendations to the BLM, the RACs often compel the agency to look at problematic issues from a different perspective. As already illustrated, in selecting members, the agency looks for people who don’t always agree with them, insisting these opposing viewpoints challenge the agency’s beliefs and contribute to

³⁴⁹ Colorado RAC member comment, on file with the Author.

³⁵⁰ Eric K. Austin. “The Social Bond and Place: A Study of How the Bureau of Land Management Contributes to Civil Society.” *Administrative Theory & Praxis*. Vol. 24, No. 2 (2002): 355-362

³⁵¹ Colorado RAC member comment, on file with the Author.

³⁵² Utah RAC member comment, on file with the Author.

creative and balanced recommendations. Understanding of the impacts of a management decision from the perspectives of the people who are affected and who don't always agree with them helps the agency see the on-the-ground implications of their decisions.

Having local people who are most impacted by our decisions giving us some direct guidance is critical because a lot of the things we do, while it sounds good on paper, when it actually gets to the implementation phase there are things we can miss that people who are most impacted by our decision can pick up on.³⁵³

Having the perspectives of people that live and work in the communities alongside us helps us to see the bigger picture.³⁵⁴

Builds Consensus

Innes and Booher argue that through effective consensus building processes, "...agreements can be reached among stakeholders who would otherwise not talk to each other, much less participate in a joint proposal."³⁵⁵ Additionally, they contend that agreements between adversarial parties are not the only by products of consensus building process and outline a host of "intangible outcomes" that often result, including increased social and political capital, increased trust and mutual understanding between members, and improved relationships that radiate beyond the consensus building process.³⁵⁶ Consensus can have different definitions depending on the group, but at minimum, it generally means that discussions have fully explored the issues at hand and the concerns of the interests at the table before making a decision.³⁵⁷ The process for reaching consensus often includes developing creative responses to management problems that consider the diverse viewpoints of the group's individual members.³⁵⁸ This process takes substantial time, a sense of open mindedness within the group, and the conversation space to have

³⁵³ BLM representative comment, on file with the Author.

³⁵⁴ BLM representative comment, on file with the Author.

³⁵⁵ Innes and Booher (1999): 414.

³⁵⁶ Ibid: 414-415.

³⁵⁷ Ibid: 412.

³⁵⁸ Ibid

deliberative discussions and discover shared interests. Developing multiple options that satisfy the shared interests of those at the table often increases creativity and the likelihood of an agreement.³⁵⁹ According to mutual gains negotiating theory, developing multiple options that satisfy mutual interests allows each member some positive gains, and options can be traded back and forth to produce a greater overall agreement.³⁶⁰ Getting the entire group to agree on a final recommendation requires compromise, a precise problem definition, development of options to address the problem, and a willingness to set aside differences in order to focus on where there is common ground:

We strive for consensus and there are various definitions [of consensus]. On our RAC there's an ongoing discussion on what consensus really means, but the closest I've come to understanding our version of consensus is that not everyone has to totally agree but they have to be able to live with it, the decision. So if someone totally can't live with a decision that everyone is making, and is totally 100% against it, then you discuss it until you get to a better place. That's sausage making at its finest...³⁶¹

Recognizing that building consensus is not an easy task for any collaborative group, many of the RAC members and Agency representatives expressed that the process of building a consensus recommendation increases group buy-in and demonstrates a balanced representation of the public's interests. They also cautioned that if the RAC cannot come to consensus on an issue, then the future resolution of that issue is questionable at best.

...sometimes there's a lot of conversation that goes on to get [to consensus], but they've always been able to get there...I think consensus is about coming up with something that works for everyone. And that's not an easy thing to do. But I think the result of that is a more balanced approach...I think it just leads to more balanced decisions that have a more universal aspect to them.³⁶²

You can pick advocates for any interest, you know from recreation, to grazing, to oil and gas, you can put those people together but if they can't work for a common

³⁵⁹ Roger Fisher, William Ury, and Bruce Patton. *Getting to Yes: Negotiating Agreement Without Giving In*. Penguin Books. New York. (2011): 73-74.

³⁶⁰ Ibid.

³⁶¹ Colorado RAC member comment, on file with the Author.

³⁶² BLM representative comment, on file with the Author.

solution, then you're not going to accomplish your purpose...you can get more bodies who are advocates, but will they be able to look at a problem and see other people's point of view and respect that and work to find win-win solutions, if you can't do that then you have a problem.³⁶³

If we can't get a group of fifteen people to all agree on an issue that affects the public, if we can't come to consensus knowing all the facts, it's kind of telling what our future is.³⁶⁴

Allowing adequate time to thoroughly deliberate on a topic is an important factor in the ability to build a consensus recommendation. The RACs often use the sub-RACs or other small working groups to gather information, engage the broader public, and formulate the pieces of a recommendation behind the scenes and in between full RAC meetings. The sub-RACs and working groups are more flexible in their ability to hold meetings, define the problem and decision space, build the group in response to the defined problem, gather and synthesize new information, develop options as possible solutions, and bring those options back to the full RAC for consideration. The full RAC must then decide if the recommendations of the sub-RACs or working groups are ready to be brought to the BLM in the form of a recommendation. This process often takes several meetings and months of work, but ultimately results in agreements and recommendations that are well thought out and representative of the broad interests of the public the RAC represents.

...everybody gets to look at what the proposals are prior to the meeting. We'll have a majority of what I'll call unanimous decisions because of the way that our council works, that's with representation of each category on the sub-groups, and getting information out prior to our meetings so you have an opportunity to take a look at it...if it's a point that we can't reach unanimous decision then we'll send it back to the sub-group until the next meeting.³⁶⁵

Ensuring everyone in the group has equal access to the information resources is another important consideration in the process of building consensus. The RACs have

³⁶³ Wyoming RAC member comment, on file with the Author.

³⁶⁴ BLM representative comment, on file with the Author.

³⁶⁵ Western Montana RAC member comment, on file with the Author.

generally found that providing everyone with all the information, making sure everyone is working with the same information, and the group has enough time to consider the information and the proposed solutions eases the path to consensus. Even so, sometimes a vote is required to push a recommendation over the finish line, “I always said to the group, we’re not always going to agree or disagree but if we’re equally informed we’re going to be closer to agreement than anything else so let’s try to get equally informed on the issue and then we can weigh our biases after that and eventually come to a vote and democracy rules.”³⁶⁶

The interesting thing about the RACs is their ability to reach consensus without the use of neutral facilitators or outside mediation. When asked, every RAC member denied using outside mediation or facilitation services. Without exception they cited the quality of people, their willingness to set aside differences and look for common ground, and the balance of interests at the table as factors that enable the RAC to reach consensus recommendations:

...the RAC is really interesting because we’re asked, at least my perspective of it, is it’s a formalized process but it’s not super formalized, it’s more of a culture from what I’ve understood. So the RAC members are supposed to be able to self-facilitate themselves, and are supposed to be able to reach consensus, and are supposed to be able to self-govern themselves, and the BLM is there to hear what’s happening but the BLM isn’t going to interject and try to help the RAC get to consensus, and there isn’t a neutral facilitator.³⁶⁷

What sustains the RACs over time?

As noted earlier, according to Williams and Ellefson, one factor determining the success of any collaborative partnership is the ability to, “...attract and keep individuals and organizations engaged in partnership activities.”³⁶⁸ Simultaneously, one goal of instituting

³⁶⁶ Utah RAC member comment, on file with the Author.

³⁶⁷ Colorado RAC member comment, on file with the Author.

³⁶⁸ Williams and Ellefson (1997): 32.

an effective dispute resolution processes is to enable the process to continually address the management problems that invariably arise over time. As McKinney, Field and Bates suggest, "...the intent of disputes system design is to create systems for dealing with not just a single dispute, but the stream of disputes that arise in nearly all relationships, communities, and institutions – so called, ‘chronic disputes.’"³⁶⁹ Ideally, an effective consensus-based planning and decision making advisory council would encapsulate many of the same goals. By this measure alone, the BLM RACs can be determined a successfully instituted collaborative arrangement in federal land management planning.

Probing the question of what sustains the RACs over time illuminates three major themes. First, the structure of the RACs ensures longevity and consistency across geographies. However, without producing some outcome or perceived value for the BLM, the RAC membership, and the public at large, the structure would remain an empty shell. Therefore the second theme, the RACs ability to build social and political good will between its members demonstrates one of the intangible by-products of consensus building discussed by Innes and Booher³⁷⁰ that supports the structure and cultivates trust between the agency and the public. Finally, as the aphorism suggests, "The ends justify the means." For over twenty years, the RACs have demonstrated an ability to forge agreements around complex management problems, and this success has galvanized the BLM to continue its twenty-year experiment in collaborative governance.

The Structure: Embracing FACA

Much like the organizational structure enables the RACs success, the structure also helps to sustain the RACs over time. The RACs were instituted through Bruce Babbitt's regulatory reforms under the Clinton Administration in the 1990s. With each subsequent

³⁶⁹ McKinney, Field and Bates (2006): 3.

³⁷⁰ Innes and Booher (1999): 414.

administration, the question invariably comes up within the Agency, will the RAC program endure, and how much influence will the RACs continue to have on the agency? However, with each incoming administration, the value of the RACs has been reaffirmed.

Everyone recognizes the value. There was some thought that when President Bush came into office they were going to eliminate the RACs, and that didn't happen. Then when President Obama came in, there was thinking that they were going to eliminate the RACs, that didn't happen again. They see this as being valuable to the agency.. Now then so the stature of the RAC changes also with that, how much weight [they are given]. We say, 'well the RAC recommended that we do this.' Sometimes that carries more weight depending on who's sitting in Washington, who's in the Whitehouse.³⁷¹

Aside from recognizing the value to the agency, the fact that the RACs were constructed into the statutory and regulatory structure of the agency (through FLPMA and the Rangeland Reform '94) at a time when the public demanded more access to decision making provides some level of certainty around the program's continuation. The regulatory structure was said to provide the ability for the public to develop a deeper and more meaningful relationship with the agency.

I think the fact that we have, that there is FACA, that the secretary appoints members, and there's strict categories, there's a process for how the meeting is run, the federal register notice, the designated federal officer and a chain of command - all of those structural pieces are actually really important, and they provide a common set of rules, or set of circumstances that level the playing field for participating. So regardless of geography or what the general population believes, they'll get a general cross section of the population that lives there. I think all the structure stuff is important.³⁷²

Every BLM representative interviewed suggested that having a standing group of engaged members of the public to provide them with advice on issues they struggle with is incredibly helpful. The values they highlighted included gaining advice from a diverse range of perspectives, helping to find creative solutions to difficult management issues, and enhancing public support of the decisions that are made. Additionally, the RAC can be

³⁷¹ BLM representative comment, on file with the Author.

³⁷² Colorado RAC member comment, on file with the Author.

employed during NEPA scoping, and the recommendations they provide can be used directly as an alternative in agency planning documents. Agency representatives also suggested that the RAC helps the BLM understand how their decisions affect the public, and in turn, the RAC helps to build trust between the agency and the public.

We can come to the RAC and say we're struggling with this and without having to go out and form a blue ribbon panel, we already have one set up for us. We have that standing group as a sounding board, to provide us advice if we're really heading in the wrong direction.³⁷³

Because it's a federal advisory committee chartered group, we can use that stuff, we can take that recommendation and write it right into an alternative that we can write an analysis on. So, in selecting that alternative we know that it's already had some level of diverse group discussion and consensus on it and that should make our project and what we're trying to accomplish better.³⁷⁴

Several RAC members had a similar view. Having a standing collaborative group that is equipped to provide advice on the constant stream of issues that the BLM struggles with is a positive development over building a grassroots or ad hoc collaborative process over single issues.

The benefits [of the RAC], as opposed to the grassroots performance, is that you have the funding, the logistics are all set up, you know where you're meeting, there is a meeting space that has been reserved, you set aside three days and go in and do it. At the grassroots, you have all the obstacles of logistics, and funding, but the motivation and experience at the grassroots level is that you know what you're going to go and do...So we've gotten over that first hurdle of grassroots development...sometimes that's where you get stuck, but that's the one thing that we're doing well so how do we take advantage of that.³⁷⁵

Two of the key features sustaining the RACs and enabling their success are the legal and regulatory structure under which the RAC's operate coupled with the flexibility to tackle diverse issues of concern to the agency and the members when they arise. Indeed, both the BLM and the RAC members view the ability to have a consistent, reliable group to provide

³⁷³ BLM representative comment, on file with the Author.

³⁷⁴ BLM representative comment, on file with the Author.

³⁷⁵ Wyoming RAC member comment, on file with the Author.

advice on complex management issues from a diverse perspective of public peers is seen as a major benefit. Concurrently, the opportunity to have a real influence on BLM management decisions is one of the tangible effects of this collaborative process that enables the RAC to attract and keep individuals engaged.

That said, at one time or another, the question came up with each RAC group interviewed as to how much influence they actually had over the Agency's management decisions. Some interviewees indicated that they felt like at the local level, their recommendations were very well valued, but the further the recommendations traveled up the administrative hierarchy, or the further they were removed from the field office level, the less weight they carried.

I appreciate the folks in the state office, I appreciate the folks that are trying to manage the land out of the district offices, there's a lot of BLM land ...and they can't make everyone happy, they're lucky to make half the people happy. I trusted [the State Director] because he was the type of guy to sit down and talk about the issues with all the stakeholders, and at least try to get the job done somehow, and get a decision made. After it left his office and went to Denver or Washington, I about lost hope. Seemed like if the feds, and the people out in DC would just stay out of it, we could get the job done...³⁷⁶

Other members expressed an understanding of an added layer of complexity, or a filter between the recommendations the RAC provides and the BLM's responsibility to ultimately make and implement the final management decisions.

I think they're [the BLM] very responsive...I think it's a balance because I think the BLM really listens, and understands where we're coming from, and they do as much as they can to have our recommendations translate into management, but I think at the end of the day we end up asking for things that the BLM can't do...there's a difference between them listening to us, taking us seriously, and attempting to implement our recommendations is one thing, and what it looks like in the end is another.³⁷⁷

³⁷⁶ Utah RAC member comment, on file with the Author.

³⁷⁷ Colorado RAC member comment, on file with the Author.

The other major challenge the RAC faces with its organizing structure is the tendency to be bound by it too rigidly. Several of the RAC members agreed that while the organizing structure, being chartered under FACA, and having the weight of law and regulation behind what they do is a critical feature contributing to the RAC's success, sometimes they needed a little more, "...space to move around..." within the structure.

I think there's a balance to be found between the cemented structure to get people inside, and then a little bit more of give them the boards and nails, say here is what the law says, here is what we need to do, can you help us create this together? I think right now were the former, were plugged into something we can't change and we end up beating our head against the wall. Again you look at the ground-up, grassroots, organic process there is a sense of creating that structure together. So within the guidelines, within the law can they give us some more space to move around?³⁷⁸

I think that having the land management agency or the government step back during the meetings, and, you know, they create all this structure, then once folks are into the structure and a part of the RAC, they step back and make sure they are not trying to unduly influence the conversation, or steer the RAC towards specific outcomes, or impede the process in any way once it gets going. I think they should create the structure and the boundaries and all that and let it go, so it can self-form and develop its own connections, come up with its own conclusions and feel empowered.³⁷⁹

Finding that balance is no easy task, and takes time for any collaborative group. All groups, whether agency initiated or developed through grassroots efforts go through the classic process of forming, storming, and norming before ultimately performing. Each RAC must go through its own group process collectively to identify, understand and implement the best way to enhance their performance. For some, developing the agenda based on the interests of the RAC members allows a higher degree of performance. For others, capitalizing on the ability to constitute sub-RACs allows greater flexibility and engages members and the public on the issues in which they are most interested. For the agency, sometimes a higher

³⁷⁸ Wyoming RAC member comment, on file with the Author.

³⁷⁹ Colorado RAC member comment, on file with the Author.

performing RAC results from finding the courage to let go of the reigns and trust the process to proceed under its own impetus.

Outcome Criteria Themes

Innes and Booher discuss two types of products that often result from successful consensus building processes: tangible and intangible.³⁸⁰ One of the intangible benefits of a successful collaborative process is the building of trust among the members that results in improved working relationships between participants, agencies, and the public.³⁸¹ Improvements in trust and relationship quality between parties, gaining knowledge and understanding about the issues, and increasing the capacity to address future conflict are the social qualities that define the criteria *building social and political capital* that often results from a consensus-based dispute resolution process.³⁸²

Conversely, the tangible products often take the shape of formal agreements such as plans, policies, legislation, or voter initiatives.³⁸³ Additionally, the process outcomes often produce favorable results for the ecological function or environmental integrity of the place such as improvements to wildlife habitat, forest health or water quality.³⁸⁴ Finally, consensus building processes also often result in second- and third-order effects such as implementation and monitoring agreements between parties, and spin-off partnerships that are better able to address future problems collectively.³⁸⁵ These second and third order effects are what Moote describes as keys to “closing the feedback loop.”³⁸⁶ Necessary are an individual participants willingness to learn and experiment with new ways of doing things,

³⁸⁰ Innes and Booher (1999): 414.

³⁸¹ Ibid

³⁸² Conley and Moote (2003):376.

³⁸³ Innes and Booher (1999): 414.

³⁸⁴ Conley and Moote (2003): 376.

³⁸⁵ Innes and Booher (1999): 414.

³⁸⁶ Ann Moote. *Closing the Feedback Loop: Evaluation and Adaptation in Collaborative Resource Management*. Northern Arizona University (2013). Available: <http://library.eri.nau.edu/gsd/collect/erilibra/index/assoc/D2013002.dir/doc.pdf>.

and an organizational commitment to adaptive management.³⁸⁷ Leighninger discusses implementation of agreed upon outcomes as a key strategy for democratic organizing and an explicit goal to strive for.³⁸⁸

Intangible Outcome: Builds Social and Political Capital

Building lasting relationships between members of a collaborative group often facilitates, "...genuine communication and joint problem solving..."³⁸⁹ which results in an improved likelihood to share information, negotiate around potentially conflicting issues, and be responsive to future change and conflict.³⁹⁰ Without exception, the RAC members interviewed consistently cited the improvement of working relationships and trust between interest groups as one of the greatest benefits of working on the RAC.

We got to know each other as individuals, we got to understand what we had in common and what we disagreed on, but I think we became people who respected one another and when we were finally given some assignments on long range planning I think we functioned [well], certainly.³⁹¹

RAC members have taken the time to get to know each other outside of the meetings and can understand where each other is coming from, and that's a really big piece, the opportunity we get as RAC members...[to] understand where the other side is coming from. So that trust building is a really important component...³⁹²

Another benefit of building trusting relationships within the group is that it begins to radiate outward and influence the public outside of the RAC setting. As one RAC member pointed out, "I think there is some trickle down in the RAC...I think the RAC enables some cross communication between the interest groups, and I think the trust that's built between the RAC members serves as a conduit so the BLM doesn't always have to play traffic cop

³⁸⁷ Ibid:

³⁸⁸ Leighninger (2005): 21.

³⁸⁹Innes and Booher (1999): 414

³⁹⁰ Ibid

³⁹¹ Utah RAC member comment, on file with the Author.

³⁹² Colorado RAC member comment, on file with the Author.

between the different interests.”³⁹³ It was also suggested by the Agency that this trust eventually permeates into the communities and generates understanding between the BLM and the public at large, noting, “The RAC, being a spectrum of public peers, validates the decisions we made and shows that the agency is listening to the concerns of the public which ultimately helps to improve trust.”³⁹⁴

This is not to say that the public always agrees with what the agency’s management actions or policies even with the input of the RAC. Controversy still persists, and a certain degree of conflict will always be an inherent part of multiple-use management. This is not necessarily a bad thing. Disagreement over solutions to a problem often results in stronger, more adaptive and politically savvy options to consider. A problem arises when conflict over the issues results in inaction and prevents the agency from effectively fulfilling their management requirements or causes degradation to the resources. The RACs have demonstrated an ability to bring together the agency and the public to identify and solve problems collaboratively.

*Yes I do [think the RAC provides a good interface between the agency and the public]. You have an area that is having some problems, the locals are stirred you can go to that area and you listen to the BLM’s position and you can listen to the local’s position. And I’ll guarantee you the answer is not always with the agency, and it’s not always with the public, its somewhere in between. And unless, or until you have those interfaces with those groups you really don’t start talking, and if you don’t talk you can’t resolve the issue...the RACs are a good way to start those conversations.*³⁹⁵

The Tangible Outcomes: Produces Information Resources that Increases Creativity, Ends Stalemate, and Results in High-Quality Agreements

Aside from looking at on the ground improvements, one of the most common criteria for evaluating a consensus building process is simply whether or not the group was

³⁹³ Colorado RAC member comment, on file with the Author.

³⁹⁴ BLM representative comment, on file with the Author.

³⁹⁵ Utah RAC member comment, on file with the Author.

able to reach an agreement.³⁹⁶ A successful collaborative process often results in synthesizing shared knowledge and information resources, incorporating that information into creative ideas that result in formal agreements.³⁹⁷ Through this process, ideas that otherwise would not be considered are often brought to light and developed into management plans, legislation, or policy.³⁹⁸ However, these steps in the agreement forming process are often so intertwined that it is difficult or inefficient to discuss them individually. As Innes and Booher suggest, “Consensus building by its nature is deeply embedded in the ongoing stream of political and social action, collective learning and change. The threads can be followed to some degree to show how one action links to another and another, but they can never be disentangled or even fully articulated.”³⁹⁹

The purpose of the RACs, as codified by 43 CFR § 1784, is to provide advice to the Secretary and Director of the BLM, “...regarding policy formulation, program planning, decision making, attainment of program objectives, and achievement of improved program coordination and economies in the management of public lands and resources...”⁴⁰⁰ Inherently, the process of formulating that advice compels the participating members to discover common ground and areas of agreement through deliberative discussions. RAC members suggested that the most common way to discover shared interests and produce recommendations is to focus on where there is agreement rather than where there is disagreement.

There are some things we don't agree on; we just kind of set those aside. You don't have to focus on getting total agreement on an issue. The real question might be how many [wild] horses belong on an allotment? It's a lot easier to come to agreement on

³⁹⁶ Innes and Booher (1999): 415.

³⁹⁷ Ibid

³⁹⁸ Ibid

³⁹⁹ Ibid: 416.

⁴⁰⁰ 43 CFR § 1784.0-6

*that than whether you think there ought to be a wild horse program or not. So you just bite off as much as you can chew and work on it.*⁴⁰¹

Another frequently used measure of success is to ask whether the agreements were implemented.⁴⁰² Because the RACs function in an advisory capacity only and there is no mechanism for enforcing the recommendations, or binding authority over the BLM, implementation of agreements is not a good measure of success in the RACs case. However, herein lays the importance of understanding participant satisfaction as a factor in evaluating success. If the recommendations that are offered as advice to the BLM satisfy the interests of the RAC members, then the group has largely achieved the purpose under which it was organized. If the recommendations lead to creative or innovative management solutions then the BLM benefits all the more. As Innes and Booher point out, “Even a process without an agreement may be a success if the participants have learned about the problem, learned about each other’s interests, and about what may be possible.”⁴⁰³

Every RAC member interviewed spoke of at least one recommendation their group has developed during their tenure on the committee that has helped the BLM with difficult management decisions. In addition, the review of the past meeting minutes as summarized in the table in Appendix IV illustrates the diversity of management issues discussed by the RACs. Many of the issues discussed by the RACs overlap, existing consistently across landscapes regardless of district boundaries, indicating that management problems, much like wildlife, tend not to be bounded by lines on a map. Wild horse and burro management, siting of energy development projects, resource management planning, vegetation and riparian restoration projects, grazing management, and recreation fees were among the

⁴⁰¹ Wyoming RAC member comment, on file with the Author.

⁴⁰² Innes and Booher (1999): 415

⁴⁰³ Ibid

major issues commonly addressed by the RACs.⁴⁰⁴ Many of the interviewees discussed the RACs demonstrated an ability to develop agreements that improved management plans or resulted in creative solutions to management problems across these varied landscapes.

*Over the past 19 years our...RAC has provided the DFO with between 25 and 30 recommendations. These included the Standards and Guidelines, which was at the very beginning of the RAC...issue papers, fee proposals, travel plan guidance, and that just names a few things.*⁴⁰⁵

*[The] five year strategy for the NCLS lands...was really interesting. I mean, the BLM RAC almost totally rewrote it. And the funny thing about it is, I think, even the staff people ...were very excited about the outcome of that, and it has since become the five year strategy for the Utah BLM office for the NLCS.*⁴⁰⁶

*We spent one entire RAC meeting talking about [the Three Creeks Grazing Strategy], and then it was pretty clear... that quite a few of the people on the RAC just didn't get it, didn't understand. So we took a two-day tour, and it was just incredibly productive. People when they got on the ground they could see what you were talking about. So then the BLM RAC wrote really quite a sophisticated letter. It was approved by the RAC; we all voted for it, it was a recommendation that the State BLM should support the Three Creeks Grazing Strategy.*⁴⁰⁷

Here again, the sub-RACs aid the RACs in diving deeper into substantive issues and developing creative responses to management problems. Creativity contributes to satisfying the interests represented by the RAC as a whole, but can also inspire options that otherwise may not have been considered. The sub-RACs are one such mechanism to gain public feedback and induce creativity.

So we have our discussions, and if it is something that rises to the magnitude of a position paper... somebody will say... will you chair a subcommittee and develop something. Then, the subcommittee person will bring back a recommendation and we go around the room and say, Yeah what about this, what about that...and then they would say we think you need to re-draft, the group would ask, could you take this back and fix these things, and so on and so forth...and we got to a point where the chair said, everybody agree with what we've got? Somebody makes a motion, and second and we

⁴⁰⁴ Summaries of RAC meeting minutes from the past two years; on file with the author.

⁴⁰⁵ BLM representative comment, on file with the Author.

⁴⁰⁶ Utah RAC member comment, on file with the Author.

⁴⁰⁷ Utah RAC member comment, on file with the Author.

*vote on it...we don't have conflict there, we talk it out, and try and consider, and include everybody's opinion. If somebody's exact wording doesn't get in there, generally somebody will pick it up and make sure it's in the statement.*⁴⁰⁸

This back and forth conversation between the subcommittee and the full RAC allows recommendations to be developed that address the public's concerns, or proposes creative solutions to a local management problems:

*[The sub-RAC] brought in some outside folks [who were] claiming to have some legitimate complaints against the BLM office over the oil and gas leases. The main issue was they had really hot and heavy activity in the area where he lamed in the spring, and he had to lamb there because it was the only place where he had adequate water. It was really very simple, we just convinced him by spending 30-40 thousand dollars they could provide him water and he could lamb away from the activity and everybody could be happy.*⁴⁰⁹

The RACs have the ability to gather information about a topic by soliciting the informed opinions of outside interest groups and the Agency's resource specialists. This allows outside information to be synthesized prior to or concurrently with the process of developing a recommendation. As one RAC member recalls, "We've had two resolutions that the advisory council has put together concerning wild horse and burro and they sought out Friends of the Mustangs, and also our wild horse and burro specialists to be able to bring them information as they were crafting those resolutions to help them understand what some of those issues are."⁴¹⁰ In turn, recommendations generated by the RAC often empower the agency to tackle issues that they would otherwise be reluctant to take on:

*Some of the things we have heard from our partners at the BLM...is that they would have felt that their hands were tied and intimidated to work on tackling an issue like invasive plants if they had to do it on their own, but since they had a collaboration of people who could bring lots of capacity and lots of resources to the table they feel like they actually stand a chance.*⁴¹¹

⁴⁰⁸ Wyoming RAC member comment, on file with the Author.

⁴⁰⁹ Utah RAC member comment, on file with the Author.

⁴¹⁰ BLM representative comment, on file with the Author.

⁴¹¹ Colorado RAC member comment, on file with the Author.

Conversely, on issues they know to be controversial, a recommendation from the RAC can alleviate the Agency's anxiety over moving in a particular direction. A recommendation can make the decision easier to implement because the Agency can be confident that the recommendation already accounts for the perspectives of the diverse cross section of the public interests the RAC represents. As one BLM staff member suggested, "[The BLM] can take that recommendation and write it right into an alternative that we can write an analysis on. So in selecting that alternative we know that it's already had some level of diverse group discussion and consensus on it and that should make our project and what we're trying to accomplish better."⁴¹²

Finally, the consistency of having the RACs and their history of recommendations over time creates a significant record of decisions that can be used to inform future discussions and recommendations. According to one RAC member involved in a wild horse discussion, "One of the first things we tried to do was put down on paper what we thought about it...Then every time there is a new chapter in the development or litigation over management of wild horses, we go back to that letter and go, hmm, I guess we don't need to revisit that, we got it right the first time."⁴¹³

The tangible outcomes produced by a particular collaborative process are but one measure of success. Again, as the recommendations of the RACs are purely advisory, and the BLM may or may not implement such advice into management action, it is difficult to evaluate the success of the RACs based on tangible or on-the-ground management actions. However, where the RACs have come to agreement and offered consensus-based advice or recommendations to the BLM, they succeed in fulfilling their regulatory requirements. The results of this survey are limited to the perspectives of those participating in the RACs and

⁴¹² BLM representative comment, on file with the Author.

⁴¹³ Wyoming RAC member comment, on file with the Author.

therefore do not account for the perspectives of parties who may be affected by a management decision but not a part of the RAC process. This is an inherent limitation on fully evaluating the RAC process through this investigation. This highlights one remaining question: to what degree have the RAC's recommendations or advice had an effect on objections or appeals to decisions or management actions ultimately implemented by the Agency? This question is beyond the scope of this investigation but could present an interesting topic for future research. What this study does demonstrate is the RACs ability to innovate locally crafted solutions to management problems that helps end stalemates between represented interests and often result in high-quality, agreed upon information resources and advice to the BLM from a diverse representation of the public.

5. Analysis: What can be learned from the RAC model?

As discussed in the previous chapter, the RAC's twenty year tenure of collaborative governance with the BLM has demonstrated nearly all of the criteria that describe successful collaborative, consensus-building processes of environmental conflict resolution. The only criterion that remains questionably fulfilled is that of efficiency. There are several factors, such as the appointment process and the inherent limitations on meeting frequency that frustrate efficiency. At the same time, the use of sub-RACs can be used to improve efficiency by meeting outside of the limitations imposed by structure of the full RAC. In evaluating the RACs based on the criteria outlined in chapter four, in various ways, the RACs demonstrate representation and inclusiveness, self-organization and procedural fairness, deliberativeness, building consensus, producing agreements, increasing creativity, producing information resources, ending stalemate, and building social and political capital.

First, the RACs exhibit an ability to balance representation and inclusiveness through several processes that include public input and public participation in the

formation of their recommendations. The use of public comment periods in each meeting, presentations on the issues by resource experts and members of the affected public, and the use of sub-RACs all demonstrate a commitment to closing the gap between agency decision-making and the implications of those decisions on the public's use of the public lands.

Second, the RACs navigate a tension around self-organization whereby the most successful RACs are those who develop an agenda, working groups and discussion topics collectively with the Agency. Some RACs find this challenging while others have managed to smoothly navigate this process. Where local managers maintain a tight grip over the discussion topics and use the agenda as a mechanism to limit the activities of the RAC, whether intentionally or not, RAC members feel dis-empowered and that their ability to effectively influence management decisions diminishes.

Third, the BLM has developed a collaborative process that by nature fosters creative thinking, shared learning, identification of common interests, development of out-of-the-box ideas, and challenges to the status-quo. The RACs engage the diversity of interests in a shared learning process about the identified discussion topics and develop consensus-based recommendations that often challenge individual participant's version of the status quo. The RACs use several methods, such as sub-RACs and solicited presentations to educate the individual members, and use that knowledge to inform their discussions and decisions.

Fourth, the RACs strive for consensus in when building their recommendations. If consensus is not able to be reached, often the discussion is tabled until more information can be gathered, or is sent back to the sub-committee or sub-RAC level for further deliberation. The most successful RACs focus on the areas where agreement can be found and work from there to address management problems that are identified by the group and the agency together.

Finally, successfully moving through these process criteria often result in improving social and political capital, and tangible outcomes in the form of consensus-based recommendations and advice to the BLM. RAC members consistently cited improved working relationships, improved trust, better appreciation for other interests and the challenges the Agency faces as resulting from participating on the RAC. The Agency discussed that where these improvements in relationship quality and trust were most profound, they radiating outward into the community. Where this happens, the agency perceived an improvement in their relationships with the public at large.

The formal recommendations and advice the RAC provides to the BLM constitutes the bulk of the tangible outcomes. The process of forming that consensus-based advice weaves together the strands of developing shared information resources, creative problem solving, overcoming stalemate, and producing agreements around collectively defined problems. Every RAC studied has examples of producing consensus-based advice through this deliberative process. Their ability to do so is evidenced by the continual renewal of their charters for over twenty years.

The remainder of this chapter addresses the overarching goal and primary research questions of this study: *What can be learned from the Rocky Mountain Region RACs, as an example for how collaborative problem solving can be instituted in public lands management? How can these lessons inform future attempts to institute collaborative governance within the legal and institutional framework of federal public lands?* The section is divided into two parts. First, an analysis of the above findings highlights the major benefits of the RAC model for instituting collaborative governance within federal agency planning and decision-making. The second part focuses on key lessons learned from studying the RAC model that could either address some of the challenges of the RAC itself or be applied in the

development of collaborative processes to be instituted within other agencies. This analysis draws on the interviews to understand how the RAC institution fits within the models of collaborative process design discussed in chapter two.

Reflecting on the model for dispute resolution system design developed by Leighninger that was discussed in chapter two can help with a more thorough understanding of why the RACs succeed, where they face challenges, and what could be done to overcome those challenges. Recalling the four principles: 1) Recruit diverse interests, 2) involve interests in deliberative dialogue, 3) provide opportunities to compare options, 4) effect change by applying citizen input to decision making and implementation.⁴¹⁴ Applying this framework to the RACs highlights a number of benefits and key lessons to take away when thinking about the development or refinement of future models for instituting collaborative governance in public lands and resource management. To achieve this, the four tables in Appendix III were developed from participant responses to the interview questions that illustrate the major benefits experienced from participating in the RAC process, key features enabling the RAC's success, common challenges experienced by the RACs, and where the RACs exemplify the models of collaborative process design. These tables are shown in Appendix III and were used to inform the discussion below.

What are the major benefits of the RAC model?

The major perceived benefits of the RAC model that were discussed by the participants and BLM representatives who were interviewed for this study can be summarized in four distinct categories. First, as discussed, the purpose of the RACs is to empower a diverse cross-section of interests to provide the BLM with consensus-based recommendations on the full array of management issues. By developing recommendations

⁴¹⁴ Leighninger (2006): 3.

through the multi-faceted lens of diverse interests, the RAC fulfills the first principle of engaging diverse interests.

Second, an empowered RAC facilitates a process of mutual education through deliberative dialogue that leads to overcoming differences and results in consensus-based recommendations to address complex resource management problems. A democratic governance approach to management that engages participants in shared learning and mutual education prior to decision-making is said to result in actions that have more public buy-in, and to improve implementation by addressing conflicts during the planning process.⁴¹⁵ The advice the RAC provides to the BLM constitutes an ongoing conversation about particular issues that works to educate the agency, the RAC members, and the public.

Third, from a RAC participant's point of view, the institution provides access to the BLM decision makers and a way to influence, or effect change on the decisions being made. This perception of access to and influence over the BLM management decisions also addresses the principles of engagement and empowerment that are critical elements of success discussed by Leach and Innes and Booher. From the BLM's perspective, they appreciate the access the RAC brings them to the mind of the public, which their decisions and management activities effect.

Finally, the RAC builds social and political capital that improves relationships and communicative ability between the Agency and the interest groups that embody the RAC. Often that communicative ability trickles down to the larger public sphere. In the RACs case, social and political capital manifests itself in the form of increased trust between the interests themselves, and between the interests and the BLM. The process also results in an

⁴¹⁵ Moote, McClaran, and Chickering (1997): 878.

improved ability to communicate with each other, and more productive working relationships outside of the RAC discussions.⁴¹⁶

Representation of interests in decision making

Every RAC member interviewed expressed that they benefited in some way from the diverse representation of interests involved in the group. These benefits were manifested in a variety of ways. First, the RAC members highly-valued learning about the issues from other people's points of view. The ability to learn from others on the committee created well-rounded discussions and led to finding common ground. Second, RAC members highly-valued the RAC as a vehicle to educate other interest groups about their concerns and viewpoints. Many RAC members discussed one of the major advantages of the RAC being the ability to educate others or help others understand their concerns in a civil and pro-active arena. Third, it was felt that developing recommendations through such a diverse, collaborative body of interests lent some validity and legitimacy to the advice that was ultimately given. According to one RAC member, "The fact that we were a spectrum of public interests I think that validated those decisions when we finally made them."⁴¹⁷

The BLM agreed that the support of a range of interests validated their decisions. Additionally, the Agency described four other key benefits from having this collaborative body sit in an advisory capacity. First, the RAC provides a conduit to the public to have pro-active conversations about management issues prior to making a final decision. This is viewed as an improvement over the decide-announce-defend model of traditional decision-making. Each staff member interviewed was emphatic in their appreciation of the RAC program for facilitating discussions between such a diverse cross section of community

⁴¹⁶ Innes and Booher (1999):

⁴¹⁷ Utah RAC member comment, on file with the author.

interests. They unanimously suggested that the balanced, consensus-based advice the RAC provides on complex management problems helps them make better decisions.

Second, the RACs help the BLM understand how their management decisions both are perceived by and affect the public. The conversation that ensues between the Agency and the RAC results in decisions that are more informed by and responsive to at least some of the interests that are affected by the issue. Even in situations where people don't agree with the entire decision, it helps to create buy-in. Generally, if the RAC members feel they have been heard and their interests acknowledged, they are more likely to feel better about the decision, "If I know that they've heard my opinion, I'm going to feel better about that decision they make whether it agrees with my opinion or not."⁴¹⁸

Third, it was suggested that the RAC provides political cover to the agency when making difficult decisions about controversial issues. There was a perception by some RAC members that the agency has a tendency to avoid making hard decisions and allows problems to compound on each other. The RACs, being a diverse cross section of the community of interests affected by the both the problems and the responses to those problems can act as a shield when the members of the public inevitably complain about the decision.

*To be able and look them in the eye and say look we have a RAC that is truly representative of the population...they brought me these recommendations and I agree. I think it provides some legitimate political cover for the state director to make the right decision rather than be pressured into a decision by a particular group.*⁴¹⁹

Finally, according to one BLM Staff member interviewed, because the recommendations are coming from a FACA chartered group, the agency can write the RACs suggestions directly into a planning document as an alternative to be analyzed by an EA or

⁴¹⁸ Wyoming RAC member comment, on file with the Author.

⁴¹⁹ Utah RAC member comment, on file with the Author.

EIS through the NEPA process, “[The BLM] can take that recommendation and write it right into an alternative that we can write an analysis on. So in selecting that alternative we know that it’s already had some level of diverse group discussion and consensus on it and that should make our project and what we’re trying to accomplish better.”⁴²⁰. Grassroots collaboratives cannot have this degree of direct access to the agency without risking a violation of the major provisions of FACA. This may be why so many grassroots collaboratives pursue legislation as a means of final resolution and ensuring their agreements are implemented. The recommendations made by the RAC are said to be more broadly accepted because the RAC can act as that conduit between the represented public and the Agency’s decisions. Their recommendations have already had a degree of collaboration and consensus built into them. Granted, this process inherently excludes the parties who would chose not to participate in collaboration, however, groups who attempt to get their interests met through other means, such as legislation, litigation, or the appeals processes are not excluded from the opportunity to participate through the public comment periods, and the regular NEPA process that the RAC recommendations typically navigate in order to be implemented. Analysis of the recommendations through the NEPA process allows outside interests the opportunity to inform and shape the ultimate actions taken. As it is, no major federal action, even those recommended by the RAC, can be implemented on public lands without paying homage to NEPA.

By bringing together a, “fair membership balance, both geographic and interest specific, in terms of the functions to be performed and points of view to be represented...”⁴²¹ the RACs inherently engage the diversity of its membership in a process where, through discussion of the issues, they educate each other about their own perspectives, values and

⁴²⁰ BLM representative comment, on file with the Author.

⁴²¹ 43 CFR § 1784.2-1

concerns. This discussion results in advice and recommendations that are balanced and generally agreeable to all parties involved in the discussion. Conversely, not every member of the group is going to be equally engaged in all issues. Interests and priorities are different, and personal engagement in any one issue is naturally determined by the level to which that issue rises on the interest and priority meter of the individual member. As one RAC member stated, “Sometimes the RAC can devolve into one side of an issue against another, and if you don’t have a dog in that fight, you’re kind of just sitting on the sidelines to a certain degree.”⁴²² However, if a lack of engagement by one or more interests or interest categories is a consistent and persistent problem, it may be indicative of power imbalances within the group that need to be addressed.⁴²³

Deliberative Dialogue leads to Consensus-based Agreements

The RAC fosters deliberative dialogue that commonly results in mutual education, finding common ground, and inventing creative solution options to address the management problems. According to Moote, McClaran and Chickering, “In addition to improving the information base upon which decisions are made...” improved dialogue is said to, “...aid participants in the revision and refinement of their own values and interests.”⁴²⁴ Granted, it’s not an easy process. Often, substantial time and resources are invested into researching the issues, developing solution options and cultivating agreement upon a final recommendation.

Coupling this deliberative dialogue with opportunities for feedback from RAC member’s constituents and the public at-large develops advice that is ultimately reflective of the interests of the greater public. Ideally, the knowledge RAC members gain through the discussions flows back to the constituencies they represent and results in a trickle-down

⁴²² Colorado RAC member comment, on file with the Author.

⁴²³ Ansell and Gash (2007): 552.

⁴²⁴ Moote, McClaran and Chickering (1997): 879.

effect of information sharing and public education beyond the group. One RAC member observed, "I think there is some trickle down in the RAC...I think the RAC enables some cross communication between the interest groups, and I think the trust that's built between the RAC members serves as a conduit so the BLM doesn't always have to play traffic cop between the different interests."⁴²⁵ Facilitating learning and change beyond the group is one consequence of successful collaborative consensus building processes.⁴²⁶ As this investigation only pertains to the observations of those within the RACs, one area for future research could be to investigate the degree to which the knowledge gained through RAC discussion actually matriculates outward to the larger community of interests affected by BLM land and resource management activities.

Access and Influence creates buy-in

By providing access to the BLM decision making process and influence over management activities, the RAC institution offers a key advantage over other grassroots collaborative processes that are not FACA chartered groups. The RACs facilitate access to BLM administrators and influence over management decisions, which directly relates to the principles of engagement and empowerment discussed by Leach. As already discussed, engagement is defined as engaging participants, keeping them at the table, interested and learning through in-depth discussion, drama, humor, and informal interaction, while empowerment enables participants to influence the decisions of officials or administrators. Eight of eleven RAC members interviewed discussed the ability to have access to agency administrators or the ability to influence management decisions as a benefit of the RAC institution that kept them coming back.

⁴²⁵ Colorado RAC member comment, on file with the Author.

⁴²⁶ Innes and Booher (1999): 419

The fact that the RACs are sustained by the regulations over time facilitates a constant stream of informed public input on the issues. The balance of interests on the RAC keeps discussions informed by the diversity of public interests on the landscape, educates the members about each other's perspective, and provides balanced advice to the Agency on the array of multiple use management issues. The term limits and timely influx of new members, and the diversity of membership maintained are features of the structure that simultaneously contribute to stability of the institution and prevent stagnation, even if they frustrate efficiency.

The provision of the regulations that authorizes the RAC to appeal directly to the Secretary of the Interior if the committee feels as though its advice is being arbitrarily ignored by the Designated Federal Official is one other feature that enables this access.⁴²⁷ Again, the interesting thing about this feature is that despite its potential usefulness in holding the BLM accountable is that none of the interview respondents could identify a time when it has been used. Recalling the RAC member who discussed this explicitly:

...a few of us recognize that [appealing directly to the Secretary is] a possible next step. That is also pretty unpopular, you know for Wyoming to go to the Feds. The state office is enough of the feds, so to go to the Secretary, even among the folks who agree that this [recommendation] should be implemented, it would be hard to get them to agree that that is the next step. We're all about fixing it at the local level, we can't go cry to DC.⁴²⁸

This statement indicates reluctance, at least in Wyoming, to use the provision even if it gets facilitates resolution of the issue because of an apparent cultural aversion to federal interference in what are considered local matters. It also highlights the effect social bonds and cultural dynamics have on group process. In Wyoming, like in much of the West, RAC members subscribe to a cultural identity that is fiercely independent and wary of Federal

⁴²⁷ 43 CFR 1784.6-2(i)

⁴²⁸ Wyoming RAC member comment, on file with the Author.

interference in local politics. At the same time, appealing to the Feds could result in improvements to the landscape or the decision making process itself. While from an outside perspective this provision may appear to be a valuable tool for ensuring agency accountability, if cultural dynamics frustrate its use, then it may be worth less than the paper on which it is written. This also illustrates an enduring tension of collaborative decision making and one the RACs must navigate when deciding how to approach resolution of their concerns or satisfaction of their interests: is it better to preserve fragile relationships built during the process or to influence management outcomes by making the tough decisions necessary to benefit the landscape?

Builds Social and Political Capital

For Innes and Booher, building social and political capital, “can be more important than tangible agreements...”⁴²⁹ as it increases trust, leads to mutual understanding of the problems, and often results in enabling stakeholders to work with each other outside of the consensus building process.⁴³⁰ The RAC members interviewed were unanimous in their insistence that the RAC contributes to improved communication between interests, the agency, and the public; to building relationships between interests that otherwise would not be built; and cultivating trust and good-will between the agency, the members, and the public. As one RAC member put it, “It’s a trust building experience. When you sit across the table from somebody who has almost diametrically opposed views of what public land is for, if you can sit across the table from them or next to them for two years, and as long as you keep it civil, people tend to change their perspective a little...I at least understand why they feel the way they do...” The question of whether RAC members have engaged with each other in project work outside of the RAC process was not explored in this study but could be another topic for further research.

⁴²⁹ Ibid: 414.

⁴³⁰ Ibid: 415.

What are the key lessons learned for instituting a collaborative governance model?

In the end, the major question driving this study is could the RAC model be applied elsewhere, and if so, what are some of the key lessons to be learned? Five major lessons stick out that are imperative to the RAC's success. These lessons could provide guidance for either improving the RAC model or instituting collaborative conservation in other areas of land use and public resource planning and decision making. The lessons are as follows:

Embrace the structure

First, having the agency embrace the FACA structure and the regulatory model is considered critical by both the Agency and the RAC members. As one BLM representative stated:

Because of the FACA they almost have to get it into a regulatory standpoint and make it something agencies have to do. Otherwise, it will change with whoever is sitting in the White House and the politics will take over. [Without that], it would have been easier for [the next] president to do away with the RACs. But because [it's in the regulations] it takes some of the politics out of that decision, and it does institutionalize it.⁴³¹

This statement summarizes the feelings of many of the RAC members well. It was suggested by many of those interviewed that the regulatory structure of the RAC institution provides direction to the agency and helps depoliticize the process. It also answers some of the questions around representation, inclusion, access and funding that *ad hoc*, grassroots collaborative processes often struggle with. The structure creates a consistent playing field across geographic, political and social landscapes, and it provides a system of federal oversight that may help to settle the nerves of those who are apprehensive towards community-based collaborative governance. Seeking congressional authorization for instituting a collaborative arrangement within an Agency is no easy task. However, as noted in chapter two, the USFS was given the authority to establish Resource Advisory Councils

⁴³¹ BLM representative comment, on file with the Author.

under the National Forest Management Act but, unlike the “thou shalt” requirements under FLPMA, implementation of this authority under NFMA was left to the discretion of the Secretary.⁴³²

Indeed, framing the process through a regulatory structure provides the agency with an opportunity to create a management floor for a variety of issues, as demonstrated by the creation of the federal fallback standards and guidelines for rangeland management through Rangeland Reform '94. This opportunity does two things for the agency and the collaborative group it establishes. First, it creates a baseline of resource protection, allocation, use or conservation that can be used to ensure sustainability at a national level. Using a federal regulatory floor for protection, use, or pollution prevention has recently been demonstrated in other areas of environmental management such as the use of Clean Air Act provisions to curb carbon emissions from energy production at the State level,⁴³³ and recent legislative proposals prescribing specific levels of timber harvest on National Forest lands.⁴³⁴

Second, creating a federal management floor can be used as a motivating factor for local groups to develop their own regulations or management prescriptions that better account for the perspectives, and conditions of the local areas and at the very least meet the federal floor. From the public perspective, creating legal hooks such as the requirement to develop local rangeland standards and guidelines compels the agency to listen to the concerns of affected interests. Witnessing the RAC's recommendations directly affecting land and resource management empowers RAC members to stay involved. Further, it helps

⁴³² Pub. L. 94-588 § 14(b)

⁴³³ See generally: EPA's Clean Power Plan announced August 13, 2015, available: <http://www2.epa.gov/cleanpowerplan/clean-power-plan-existing-power-plants#rule-summary>

⁴³⁴ See generally: Martin Nie. “Place-Based Forest Law: Questions and Opportunities Presented by Senator Tester's Forest Jobs and Recreation Act.” *Public Land and Resources Law Review*; Vol. 31. (2010): 175-185.

to attract and retain new members to the process. Without the requirement for the RAC to produce local standards and guidelines or be subject to the federal fallback standards, questions remain as to whether the agency would have been as responsive to public's input. The initial success experienced by the RACs and the Agency in implementing local standards and guidelines has resulted in an agency who, in general, largely values the advice and input derived from the RAC. Consequently, this experience reinforces the perception that the RACs have access to and influence over management decisions.

Saddle the horse; let go of the reins

The second lesson from this exploration into the RAC institution can be summarized by the statement, "...build the table but let the process proceed naturally."⁴³⁵ With the legal structure in place, many RAC members felt like it was important for them to be able to create the process collaboratively with the BLM. Where RAC members didn't have as much influence over designing the agenda, or where the managers failed to bring up issues or tasks for the RAC to work on, the RAC membership felt increasingly frustrated, uninspired and disempowered. This indicates a need for the BLM to balance the legal structure with the principles of self-organization and shared purpose to maintain an engaged and empowered membership. As one RAC member put it, "give [us] the boards and nails, say here is what the law says, here is what we need to do, can you help us create this together?"⁴³⁶ The degree to which RAC members had the ability to collaboratively develop a shared purpose with the agency, to organize their own working groups, and to feel empowered developing an agenda on which they were interested in working directly correlated with a perception of influencing management and overall effectiveness of the RAC.

⁴³⁵ RAC member comment, on file with the author.

⁴³⁶ RAC member comment, on file with the author.

For the agency, as long as the membership represents the diversity of social, political and demographic makeup of the surrounding region required by law, and the recommendations the RAC provides are lawful, then they should feel compelled to implement the recommendations. Minimizing adversarial confrontations with public interest groups on the management decisions under their jurisdiction is in the Agency's best interest. Engaging and empowering the RACs to assist them in that mission will only increase the likelihood that those decisions are made with public participation and public support. As one RAC member succinctly put it, "A RAC is only as good as the state director is willing to use them. I think a state director who really pays attention to their RAC, dedicates some resources and effort to try to get out of a RAC what they're really supposed to do, can't help but benefit from what the RAC recommends."⁴³⁷

Value added equals value gained

Both the agency and the participants have to perceive value coming from the process in order to be committed and open to it. As one BLM representative insisted, "You have to mean it. You can't tell people you want to collaborate with them and then just do whatever you want to do. We have to honor the process, because if we don't we destroy our trust with those folks and what's in it for them to work with us next time."⁴³⁸ The BLM representatives interviewed perceived the value coming from the advice and recommendations supporting their ability to make tough management decisions. They also perceived value in improving their ability to communicate with the public and understand of how their management decisions affect and are perceived by the public.

For the RAC members interviewed, several values were perceived as resulting from participation, including: shared learning and developing a mutual understanding of the

⁴³⁷ RAC member comment, on file with the author.

⁴³⁸ BLM Staff comment, on file with the author.

issues; building relationships, trust and good will between members; and gaining access to and influence over BLM management decisions. Additionally, one of the most important issues for RAC members was feeling that the BLM valued the input and advice the RAC gave them. “The key is that the BLM really values what we’re bringing to the table. I don’t know how they got there, if it was their leadership placing a high value on that or just years and years of it working that helped the staff get there...It’s not just a policy but it’s also a commitment to the process, and taking the time on the staff side to get the value back from the public people.”⁴³⁹

However, as some of the RAC members pointed out, the perception of success is often dependent on the outcomes of on-the-ground management. If the RAC or the public isn’t able to perceive the advice and recommendations affecting management actions, a vital element of communication about the value added to decision making by the RAC is missing. Several RAC members questioned if their time and effort had an effect on the ground. As one RAC member stated:

Our job is to tell [the] state director ...on this issue, this should be done. Well he can take that advice and write an instructional memo (IM), or he can throw it into the hopper and revise procedures, or he can totally ignore us, and we’re just blowing in the wind. So the challenge is to see your comments and advice used, and in this forum it can be. I’ll say in most of these things it has had some influence but maybe not as much as I would have liked.⁴⁴⁰

This indicates a need for the agency to be more transparent with the recommendations and advice the RAC provides. Implementing some mechanism to track the advice through the rest of the BLM’s decision making process and other processes of public engagement (EIS alternative development for example) would allow the public to understand the value the RAC brings to the agency decision making process.

⁴³⁹ RAC member comment, on file with the author.

⁴⁴⁰ Wyoming RAC member comment, on file with the Author.

The RACs are conferred with a degree of access and influence that rises above the level of basic public participation: the RACs synthesize the views of the public to help craft solution options before the decisions are made. Additionally, RACs utilize their resources to educate each other, gather information and perspectives from a diverse cross section of the community. They are a wealth of knowledge, talent and creativity. The agency shouldn't be afraid to task them with tackling difficult questions. Empowering the RAC to provide advice on the issues the agency really struggles with not only leads to an empowered and engaged membership, but it builds the social and political capital necessary to implement difficult decisions.

I'm saying there's a history in BLM to let some fairly significant problems compound rather than deal with them. If the RAC could provide some long term advice to the state director on issues like that, if the state director could say to them, this is a vexing problem that I've had, I'm not asking you to solve it for me but could you give me some sense of direction on that, I think the RAC could be very useful in that. But it's kind of like taking your clothes off in public in some respect, because you're not sure what the answer you get is going to be.⁴⁴¹

By providing a sense of mission and empowering the RAC to engage in finding creative solutions to vexing problems, the perceived value of the RACs can be increased. Rangeland Reform '94 did this explicitly with the requirement to develop local standards and guidelines for rangeland management or become subject to the federal fallback standards. Recreating this kind of requirement could help to catalyze an institutional arrangement elsewhere. Over time, listening to the collective voice of the RAC, which represents the community of interests who have a stake in the landscape, increases the perceived value to both the RAC members and the public at large. The degree to which the perceived value of the institution accumulates over time increases the likelihood of continued success.

⁴⁴¹ Utah RAC member comment, on file with the Author.

Invest in the Strongest Asset

An engaged and empowered public are the RAC and the Agency's strongest asset. Investing in successive crops of collaboratively-minded, solution-oriented leaders who are willing to disagree but also find common ground is critical to the success of the institution. One RAC member put it nicely, "The thing about it is that a RAC is only as good as the representation that's on it."⁴⁴²

One way to accomplish this could be to build loop-backs to the process, much like Ury, Brett and Goldberg suggest building loop-backs to negotiation. By intentionally and strategically engaging members of the public, and building pathways to the collaborative group through that engagement could sow the seeds for a sustained crop of new membership applicants. Additionally, it could lead to a public that is more informed about what the group is and what it does. In the end, more active public engagement by the group could lead to a cultural shift that embodies respect and civility, collaborative problem solving, and collaborative public education about resource problems. Enhancing loop backs to public involvement and engagement with the group could raise awareness of the value it brings to public land and resource management.

The Sub-RACs have been an especially helpful tool for the BLM RACs to engage the public at a deeper and more meaningful level. All the RACs interviewed discussed using sub-RACs and the benefits they bring to the discussions, and several RAC members discussed first participating on a sub-RAC before applying to sit on the full RAC. Encouraging sub-RACs to play a more active role in the communities and with the public-at-large regarding the issues they are working on could only increase the two-way communication that they already facilitate. Several RAC members spoke of sub-RACs holding their own public meetings. Infusing the RACs and sub-RACs with tools of

⁴⁴² RAC member comment, on file with the author.

collaborative process and encouraging them to have a more direct connection with the public could also lead to increased trust and improved communication between the public and the agency, a more empowered RAC, greater mutual learning and increased understanding, and improved management decisions.

Finally, to improve the efficiency of the BLM RACs or in implementing a similar collaborative group elsewhere, the challenges created by the appointment process need to be addressed. The inefficiency resulting from the appointment process was unanimously cited by the RAC members and BLM representatives as the number one challenge. One simple solution brought forward suggested letting the RAC member whose term is expiring continue sitting on the council until their replacement is officially seated. Another suggestion was that the appointments be made by the Director of the BLM rather than the Secretary of the Interior, thus removing a layer of complexity from the process.

FLPMA directs the Secretary to establish the advisory councils, and further states that, “appointments shall be made in accordance with rules prescribed by the Secretary.”⁴⁴³ The councils are required to comply with FACA,⁴⁴⁴ but no language in FLPMA requires appointments to be made directly by the Secretary. The regulations governing the RACs discuss requirements for establishment,⁴⁴⁵ membership composition,⁴⁴⁶ and terms of service and interest group representation,⁴⁴⁷ but none of the regulations require appointments to be made by the secretary. In fact, 42 CFR § 1784.3 (a) states, “Members may be appointed to additional terms at the discretion of the authorized appointing official...” which seems to indicate that the Secretary has the discretion to delegate the authority of making appointments to another official. The possibility of implementing legal

⁴⁴³ Pub. L 94-579 § 309(a).

⁴⁴⁴ *ibid*

⁴⁴⁵ 43 CFR § 1784.1-1

⁴⁴⁶ 43 CFR § 1784.2-1

⁴⁴⁷ 43 CFR § 1784.3

or procedural solutions to the challenges posed by the appointment process should be explored further.

Capitalize on partnership opportunities

Any program of collaborative governance should capitalize on partnership opportunities that emerge to implement agreements and recommendations. The RACs are a bridge between the agency and the public, and this bridge is buttressed by the effective use of sub-RACs. The most successful RACs assume at one time or another three of the four collaborative designs discussed by Selin and Chavez: appreciative planning, dialogues, and negotiated settlements.⁴⁴⁸ The ability to connect the recommendations and advice the RAC provides to partnership opportunities outside the group is largely a missed opportunity. As one RAC member discussed, “There’s a feeling among myself and other RAC members that we sit through a lot of fun presentations with a lot of information, but we never chew on that information, analyze it, or come up with something we can do about it...”⁴⁴⁹

Leveraging partners for implementation, monitoring and public education may require a greater expenditure of effort on the part of both the RAC members and Agency staff, but it may also result in greater continuity between the decisions and implementation of those decisions, and a greater understanding of on-the-ground activities by the public. As Moote, McClaran and Chickering point out, “Under a participatory democracy approach, administrators give up some discretion and agree to share decision making authority with other participants. In return, participants share responsibility for the successful implementation of decisions.”⁴⁵⁰

⁴⁴⁸ Selin and Chavez (1995): 193.

⁴⁴⁹ Wyoming RAC member comment, on file with the Author

⁴⁵⁰ Moote, McClaran, and Chickering (1997): 880.

The Forest Service has implemented this philosophy under the Collaborative Forest Landscape Restoration Program, whereby the collaborative group creates the plan but also assists with the implementation by leveraging the strengths and talents of the collaborators. CFLRP is a multi-million dollar program that was created around the specific goal of forest restoration and provides funding to accomplish that goal. While the idea of implementation goes beyond the scope of the RAC, it is the final piece of Selin and Chavez's design models that is left unresolved by the RAC. Building a funding component into to the RAC program, much like what has been done by the Secure Rural Schools RAC program in the Forest Service, could simultaneously help to achieve this implementation goal and provide a clearly mandated purpose with which to further empower the RACs.

By all other measures, the BLM RACs nearly encompass all four strategies of collaborative process design described by Leighninger⁴⁵¹. The RAC engages diverse interests, involve interests in deliberative dialogue, provides opportunities to compare options, and effect change by applying citizen input to decision making. The RAC also utilizes three of the four design models described by Selin and Chavez⁴⁵²: appreciative planning, dialogues, and negotiated settlements. The missing piece of the puzzle in both models is engaging the stakeholders and connecting the larger public to implementation, monitoring and evaluation of the decisions and management actions. Granted this is beyond the scope of the RAC institution as it exists today, but when considering future design, building in a loop back for participation in implementation, monitoring and evaluation closes the circle and completes the life cycle of a collaborative ECR process.

⁴⁵¹ Leighninger (2006): 3.

⁴⁵² Selin and Chavez (1995): 193.

6. Conclusion

The BLM's Resource Advisory Councils are a continuation of a nearly eighty year experiment in collaborative governance of public land and natural resource management. Beginning with the Taylor Grazing Act and the establishment of the Grazing Advisory Boards by Ferry Carpenter, local people have been integrally involved in determining the conditions under which the range and resources are utilized, conserved, protected and improved. Followed by the Citizen Advisory Boards instituted under FLPMA, the model for collaborative governance has evolved to capture an ever more diverse representation of the interests and concerns the public holds in the management of the shared estate.

The RACs program is certainly not without its challenges. This experiment has traveled a bumpy road at times, both in terms of socio-political acceptance and ecological effects. It certainly has not always resulted in the best outcomes for the condition of the watersheds, wildlife and landscapes which they were charged with stewarding. In fact much of this history is distinguished by attempts to correct exploitations of the past. Efficiency, engagement and empowerment are all dependent on the degree to which the agency is open and committed to the institution at all levels, from the federal office, to the district managers, to the field staff. Building this culture within an agency certainly takes time, dedication and a commitment of resources.

The RACs were instituted by a policy mandate over twenty years ago. Prior to that, the Department of the Interior has been working at including local perspectives in management decision making for nearly eighty years. As such, the RACs have demonstrated an ability to able to help the BLM make more informed decisions that are more responsive to local conditions and concerns, that have more buy-in from the affected public. Their continuity of service is but one measure of success. In that time, the RACs have also found success in improving trust and relationships between the interests at the table, the BLM,

and the public. Producing consensus-based recommendations that translate into management action is the ultimate goal, but even where topics are merely discussed, the deliberate nature of the discussions helps to better inform the final decisions made by the agency. An interesting topic for future research would be to conduct a survey on the condition of the public rangelands after the institution of the RAC program and if they could be tied directly to improved ecological conditions. However, absent that, providing a platform for mutual education and public engagement simultaneously informs and supports the recommendations and advice provided to the agency, and each of these factors supports the premise that the RAC are a successful example of collaborative governance instituted within a federal land management agency.

Finally, none of this is to discount the voices of those who chose means other than collaboration to pursue the satisfaction of their interests on public land and resource issues. Nor is it meant to undermine the role litigation and appeals can play in ensuring compliance with statutory mandates. Further, the RAC is not able to pursue legislative solutions to management problems, yet legislation has proven a significant tool for *ad hoc* collaborative groups to implement policies or designate management priorities. The RACs clearly cannot be all things to all people, and certainly are not a panacea to alleviating all conflict over public lands management.

To inform instituting future processes of collaborative governance in agencies that manage public lands and natural resources, several lessons can be learned from this investigation into the BLM RACs. The RACs support the argument that including local people in decision making improves both the quality and durability of the decisions. They also support the argument that collaborative forms of environmental conflict resolution can be successfully instituted in a federal agency through a policy mandate. According to the

RAC members and BLM representatives interviewed for this study, the major benefits of the institution are:

- The required diversity of represented interests leads to shared learning and mutual education about an issue and legitimizes the decision making process.
- Engaging in deliberative dialogue about complex issues prior to making decisions cultivates a shared understanding of the problem, contributes to developing creative solution options, and builds consensus-based solutions.
- Access to and influence over the agency decision making processes increases buy-in and acceptability of the decisions ultimately made.
- Including the public in formulating solution options to management problems builds social and political good will that improves relationships and communicative abilities, reduces conflict, and supports proactive solutions.

RAC members and BLM representatives also identified several critical factors that enable the RACs success. Those factors include:

- Embracing the regulatory structure provides consistency across jurisdictional boundaries, political and social legitimacy, a reliable funding stream, and an institutional memory that transcends the individual members terms. Embracing a regulatory structure also provides an opportunity to guarantee federal standards are met while encouraging the development of community oriented solutions to local management problems. The structure creates a critical foundation and a mechanism for accountability from which a successful process for collaborative governance may be built.
- The agency must construct the framework and provide a sense of mission, but then should trust in the process and the people to produce good outcomes. Any group

activity is going to inherently go through the classic steps of group process, the RACs are no exception. The agency should empower the group to address specific issues it struggles with but also let go of the reins and allow the group the freedom and ability to build the process, identify issues of interest, and collectively formulate advice on those issues without the agency maintaining a tight grip. After all, the agency must retain final decision making authority. This empowerment to self-organize increases the engagement of the membership which contributes to the social bonds built within the group, and ultimately the strength of the process itself. A strong and empowered group inevitably improves the likelihood of producing high-quality, tangible outcomes.

- Both the participants and the Agency overseeing the group need to understand the value the process contributes to the landscape. Trust is built when commitments are carried out, interests are satisfied, and mutual value is realized. If the members don't perceive more value gained from participating in the process than they can find elsewhere, they will seek satisfaction of their interests through other means. If the agency doesn't perceive value resulting from its effort, the process becomes just another box to check in a long to-do list of procedural requirements. Value is realized not only through a successful process but also from the on-the-ground implications of the process. Implementing a mechanism that transparently tracks the recommendations and advice given through the agency's decision making process could simultaneously communicate the value the RAC adds to on-the-ground management and hold the agency accountable for honoring the outcomes of the public engagement process it purports to value so highly.
- An engaged and empowered public is the strongest asset to any collaborative group. Building loop-backs to public engagement strengthens the public's perception of the

group and elicits a perception of direct access to and influence over decisions that are unavailable through other means. Investing both time and resources into cultivating public engagement is critical to continued success.

- Capitalize on partnership opportunities. One final place where the RAC program could be improved is in their ability to capitalize on the social and political good will that is built through the process. By utilizing this conduit to engage outside groups, build spin-off partnerships, and capitalize on the improved relationships and communicative ability produced the ECR circle of life is connected. Engaging the membership and the public in collectively implementing and monitoring management actions has been a major element of the next generation of policy mandated collaboration (within the CFLRP and SRS programs). This can lead to improved working relationships between the public and the agency by collaboratively engaging in comprehensive action on the ground.

The RACs and their predecessors, the Grazing Advisory Boards and Citizen Advisory Boards, are a nearly eighty-year experiment in collaborative governance over public land and resource management. They have endured multiple efforts to reform their operation and limit their influence, but they have also been consistently regarded as a critical conduit for public participation within the Department of the Interior. The lingering question is whether by hearing from the agreeable middle, an agency is better able to deal with the fringes on either end. This is one of the eternal questions regarding the use of collaborative decision making and alternative dispute resolution processes. On the other side, the question remains: should the radical fringe hold up progress that the 80% in the middle agree upon? This is an enduring tension in any area of public policy and the RAC certainly can't resolve that debate as of yet. However, we should learn from the past, and as it exists

today, the RAC program is one tool that for twenty years has demonstrated an ability to improve relationships between the public and the land managers, produce balanced, consensus-based advice over natural resource management, and to manage conflicts over natural resource decision making in a healthy and productive way.

Appendix I: Letter of Informed Consent and Interview Guide

Letter of Informed Consent to Study Participants

Study Title: Instituting Collaborative Conservation in Public Lands Management

Principle Investigator:

Benjamin Donatelle
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Purpose:

You are being asked to take part in a research study analyzing the effects of institutionalizing, or mandating through law or policy, collaboration in public lands management. This study is exploring the relationship and effectiveness of policy-mandated collaboration in resolving conflict and increasing public participation in public lands management, by exploring the Bureau of Land Management's Resource Advisory Councils (BLM RACs) as a model. You have been invited to participate because of your involvement with a BLM RAC working on public lands management issues or project planning and implementation on federal public lands in your area. The results of this research will be used to partially fulfill the requirements for a master's degree in environmental studies at the University of Montana by the principle investigator. The project findings may also be submitted for publication in relevant scientific journals, or for review by the BLM and/or other federal land management agencies, but will be done without any information that could identify you as a participant.

Procedures:

If you agree to take part in this research study, you will be interviewed by the principle investigator listed above. Your records will be kept confidential and will not be released without your consent except as required by law. Your interview can take place in person or over the phone, whichever is most convenient for you. The interview session will last between 45 and 60 minutes. In addition to this statement of informed consent, you have also received a copy of the interview questions/guide. You may have a colleague or person of higher authority review the questions and/or be present during the interview if you think that is necessary. Your interview will be recorded with your permission, transcribed by the investigator, and its content analyzed for themes and commonalities with other participants in this study. The audiotape will be transcribed without any information that could identify you and the tape will then be erased or otherwise destroyed. Your name, this form, and any other identifying information will be kept separate from the recording, and you will not be identified in the report or any other written documents. If the results of this study are written in a scientific journal, presented at a scientific conference, or submitted to the BLM or other land management agency, neither your name nor any other identifying information will be used.

There is no anticipated discomfort for those contributing to this study, so risk to participants is minimal. However, answering the questions may cause you to think about past conflict situations with other participants in your group and may bring up feelings that make you sad or upset. There is no promise that you will receive any benefit from taking part in this study, but your participation may help to increase general understanding of the effects of requiring collaborative processes in public lands planning and management. Your decision to take part in this research study is entirely voluntary, and you may refuse to take part in or withdraw from the study at any time. **By giving your verbal consent at the beginning of our call, you are agreeing to an interview that will cover general information about and your perception of participating in a Bureau of Land Management Resource Advisory Council (BLM RAC).**

If you have any questions about the research now or during the study contact: Benjamin Donatelle, by telephone at (406)580-1657, or by email at benjamin.donatelle@umontana.edu. To ensure that your rights as a research participant have been safeguarded, this study has been reviewed by the University of Montana Institutional Review Board. If you have any questions regarding your rights as a research subject, you may contact the UM Institutional Review Board (IRB) at (406) 243-6672.

Interview Guide: Instituting Collaboration in the BLM's using Resource Advisory Councils

The following questions are meant to guide personal interviews with participants in and observers of Bureau of Land Management Resource Advisory Councils (BLM RACs). The focus of this inquiry is the exploration of an institutionalized model of collaboration over public lands and resource management within a federal land management agency.

Prior to Beginning: Can you please confirm that you have received and read the statement of informed consent, that all your questions and concerns have been answered or addressed to your satisfaction, and that you agree to take part in this research project?

Interview Questions:

- 1) Stakeholders and interest group representatives often have very different reasons for joining a collaborative group. Could you talk about why you became involved with the RAC and what keeps you coming back? (BLM Representatives: Could you talk about the value you and the BLM gets from being involved with the RAC?)
 - a. How long have you been involved, and what was your motivation to become involved?
 - i. Why do you stay?
 - ii. What has been challenging about participating in the RAC? Most rewarding?
 - b. What has been your experience with other collaborative groups?
 - i. How does the RAC compare?
 - c. What interest category do you represent in the RAC?
- 2) Successful collaborative efforts often have distinct features of their processes in common. Could you talk about the RAC's operating process, how you define success, to what degree you feel the RAC is meeting its definition of success, and what enables it to be successful?
 - a. How does the RAC decide on the issues it discusses and make final decisions or recommendations?
 - b. How does the RAC manage conflict among members?
 - i. Does the RAC use neutral 3rd party facilitation?
 - ii. What is the DFO's role in managing conflict?
 - c. How does the RAC engage the public and/or interest group constituents on the issues it discusses?
- 3) Collaborative processes often sustain themselves because of their ability to achieve results. What results have you observed from working with the RAC that sustains this process, and why do you feel it has been able to sustain itself?
 - a. What formal agreements have been reached, projects implemented, or resources improved as a result of RAC recommendations?
 - b. How has the BLM used recommendations the RAC puts forth?
 - c. How has participation in the RAC process affected working relationships with other members of the group?
 - i. With members of the public?
 - ii. With other collaborative groups?
 - d. How does the RAC solicit and empower new members?
- 4) The RAC program is an example of an institutionalized collaborative process of public lands and resource management. Thinking in terms of setting up future process for success, what advice would you give policy makers trying to better institutionalize collaboration in natural resource planning and decision making?
 - a. What do you see as the benefits of participating in the RAC? Drawbacks?
 - b. How does the RAC provide opportunities for or limit discussion topics?
 - i. Are there issues or problems you feel you would like to discuss in the RAC but cannot? Why or Why not?
 - c. What challenges does the RAC face in achieving its goals or defined criteria for success?
- 5) Who else should I be talking to about this particular RAC? What other questions should I ask?

Appendix II: Evaluation Criteria

Process Criteria	Description	Key Words
Representation and Inclusiveness	Includes representatives of all relevant and significantly different interests. Provides substantial opportunity for public input and incorporates public input in formulating options and decisions.	other interests, diverse interests, perspectives, comments
Shared purpose	Process is driven by a purpose and tasks that are real, and shared by the group. Group is able to identify and prioritize issues collectively.	Common ground, shared values, compromise,
Self-Organization/ Procedural Fairness	Allows participants to decide on ground rules, objectives, tasks, working groups, and discussion topics; and treats all parties equally and respectfully in the establishment of such procedures.	shared development, had my say, felt heard,
Engagement and Empowerment	Engages participants, keeping them at the table, interested and learning through in-depth discussion, drama, humor, and informal interaction. Enables participants to influence the decisions of officials or administrators.	Influenced management, felt empowered, encouraged, gained access,
Deliberativeness	Fosters creative thinking, shared learning, examination of each other's assumptions, identification of common interests, out-of-the-box ideas, and challenges to the status-quo	common interests, understand other perspectives, learned a lot, shared learning
Builds Consensus	Seeks consensus only after discussions have fully explored the issues and interests and significant effort has been made to find creative responses to differences	Consensus, all agreed, we all decided, Collaborative decision
Outcome Criteria	Description	Key Words
Produces Agreements	Produces high-quality agreements (formal recommendations in the RACs case) that are agreed upon by the participants and substantially satisfies their interests.	Came to agreement, provided advice, developed recommendations
Ends Stalemate	Ends stalemate, increases understanding, and results in the implementation of agreed upon projects, activities, or plans.	Overcome conflict, get along, understand each other, respect other perspectives.
Efficient in Costs v. Benefits	Compared favorably with other planning methods in terms of costs and benefits.	time commitments, Efficient process, less costs, beneficial,
Increases Creativity	Produces creative ideas or innovations that would not otherwise be achieved.	Creative results, new ideas, see things they weren't thinking about
Builds Social and Political capital	Builds trust and results in improved working relationships between participants, agencies, and the public. Results in improved ability to be responsive to future change and conflict.	build relationships, understand other points of view, build trust, respect,
Information resources	Produces high-quality information that participants agree upon, understand, and accept. Results in learning and change beyond the group.	Shared knowledge, understand the issues,

Appendix III: RAC Themes Tables

Table III – I: Key Benefits of participating in the RAC

Key Benefits	Representative Quote	Corroborating Theory
Access to decisions and decision makers	<p><i>We worked really closely with permittees and our goal was to improve grazing management...So it was really important for us to have a connection with the public land agencies and of course the BLM RAC was a great opportunity to do that.</i></p> <p><i>The RAC for me was of interest to one, build relationships with the land managers but also just to find out if there was more of a role for us to be playing in terms of how BLM works on river management issues in general, and to be able to have access to more of a cross cut of the public and environmental field in general and how they interact with the BLM.</i></p>	Engagement and empowerment
Opportunity to influence decisions and land or resource management	<p><i>When we help the managers see something they weren't really considering and if that was a way to save, to keep a process valuable for the public, I think that's a really good thing;</i></p> <p><i>There's a ton of influence and diversity on BLM RACs and they have an incredibly sway on public land management policy, and hardly anyone knows what the heck they are.</i></p>	Engagement and empowerment
Stay informed on the issues affecting public lands and resources	<p><i>The reason I applied for the RAC was I knew it... was a forum that I could stay informed on BLM issues across the state.</i></p>	Deliberativeness
Mutual education and shared learning between the diverse interests leads to discovering common ground	<p><i>It's interesting sometimes to sit back and listen to their philosophies and how they got them, then you sit down over lunch or something and tell them yours and, "...oh, I never really thought of that..." Or you realize that you hadn't thought about their position. I often have felt that two people, equally informed seldom disagree. That's where I come from.</i></p> <p><i>Being able to...understand the cross section and how these different land management mandates intersect with each other and how the different uses intersect with each other, that is really valuable.</i></p>	Deliberativeness
Learn about diverse perspectives of the issues	<p><i>I think what's most rewarding is to have a group you feel you can share with pretty honestly, and they...they began to see that it wasn't that easy. That their perspective was one piece of a very large and much more complex puzzle. And they became a very valuable member of the RAC because of their background but also because they kind of grew and changed a little bit in the process.</i></p>	Representation and Inclusiveness, Deliberativeness
Builds trust and communicative ability which improves relationships between interests	<p><i>It's a trust building experience. When you sit across the table from somebody who has almost diametrically opposed views of what public land is for, if you can sit across the table from them or next to them for two years, and as long as you keep it civil, people tend to change their perspective a little...I at least understand why they feel the way they do...</i></p> <p><i>It improved my ability to communicate with people outside of the box that I normally travel in.</i></p>	Social and political capital
Builds political good will around controversial issues	<p><i>The RAC, being a spectrum of public peers, validates the decisions we made and shows that the agency is listening to the concerns of the public which ultimately helps to improve trust.</i></p>	Social and political capital
Provides political cover to make difficult decisions	<p><i>To be able and look them in the eye and say look we have a RAC that is truly representative of the population...they brought me these recommendations and I agree. I think it provides some legitimate political cover for the state director to make the right decision rather than be pressured into a decision by a particular group.</i></p>	Social and Political Capital

Process of discussions results in <i>consensus based agreements</i> that enhances management decisions	<i>...the formal recommendations we make to the BLM. Whenever we do a resolution or make a formal recommendation on an issue to the BLM that feels like there's some accomplishment. I also feel like whenever we take on a new subject...we go from not knowing really anything about it to understanding a great deal about the project. I think there is a strong sense of accomplishment around learning; us collectively learning</i>	Produces Agreements
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Table III – II: Features enabling RAC success

Enabling Features	Representative Quote	Corroborating Theory
The structure	<p><i>...there is a strong structure on the front end. I think the fact that we have, that there is FACA...all of those structural pieces are actually really important, and they provide a common set of rules, or set of circumstances that level the playing field for participating.</i></p> <p><i>...we can come to the RAC and say we're struggling with this and without having to go out and form a blue ribbon panel, we already have one set up for us...and because it's a federal advisory committee chartered group, we can use that stuff, we can take that recommendation and write it right into an alternative that we can write an analysis on.</i></p> <p><i>The benefits [of the RAC], as opposed to the grassroots performance, is that you have the funding, the logistics are all set up, you know where you're meeting, there is a meeting space that has been reserved, you set aside three days and go in and do it...So we've gotten over that first hurdle of grassroots development...sometimes that's where you get stuck, but that's the one thing that we're doing well so how do we take advantage of that.</i></p>	Representation and Inclusiveness, Engagement and Empowerment
Finding the right people who want to work towards solutions	<p><i>You can pick advocates for any interest, you know from recreation, to grazing, to oil and gas, you can put those people together but if they can't work for a common solution, then you're not going to accomplish your purpose...you can get more bodies who are advocates, but will they be able to look at a problem and see other people's point of view and respect that and work to find win-win solutions, if you can't do that then you have a problem.</i></p> <p><i>...a RAC is only as good as the representation that's on it.</i></p>	Representation
Engaging the public	<i>I think [the RAC is] very grass-rootsey. Each RAC member represents a public constituency, so that RAC member is getting feedback and information and there is a two-way communication with those constituents that they represent...[it's] the representative democracy piece.</i>	Inclusiveness
Sub-RACs	<i>...essentially [with sub-RACs] we have a need to get the actual people from that field office who are using the land to advise us on how we should be advising the BLM...So the key there, is working with... who might be interested and who might be able to contribute to the process valuably and then making sure we, the RAC, are giving the sub-RAC the freedom to make recommendations as they see fit, that we have a RAC liaison that brings that information back to the RAC and says this is what the Sub-RAC said, and then we can decide what to do with that information...</i>	Inclusiveness
Support from the Agency to organize the discussions and develop the agenda	<i>It's kind of a collaborative process for putting agenda items on for the next meeting. We get feedback from the BLM on what they're working on, what they think we might be interested in, but we also self-identify topics that we either want to discuss and make recommendations on, or that we want to learn more about...There's themes – you know grazing, energy development, wild horses, recreation are all reoccurring topics for our RAC</i>	Self-organization and Shared purpose, empowerment and engagement
Relationships built contribute to shared understanding	<i>RAC members have taken the time to get to know each other outside of the meetings and can understand where each other is coming from.</i>	Deliberativeness
Establishes procedures for shared learning	<i>On more complex issues we form work groups to study the issues and make recommendations to the full RAC.</i>	Deliberativeness

communication about difficult issues facilitates educating each other from diverse interests	<i>We did a really good job helping the recreation and energy folks understand the issues with grazing, and in the same turn, the recreation and energy folks educated us old cowboys.</i>	Builds Consensus
Balanced representation and deliberate conversations improves ability to reach decisions	<i>...if someone totally can't live with a decision that everyone is making, and is totally 100% against it, then you discuss it until you get to a better place</i> <i>We'll have a majority of what I'll call unanimous decisions because of the way that our council works, that's with representation of each category on the sub-groups, and getting information out prior to our meetings so you have an opportunity to take a look at it...if it's a point that we can't reach unanimous decision then we'll send it back to the sub-group until the next meeting</i>	Builds Consensus
Produces agreements on complex management issues	<i>The more that we can learn from one another and make well thought out, well rounded recommendations to the BLM the better we're doing.</i>	Produces Agreements

Table III – III: Common Challenges

Theme	Representative Quote	Corroborating Theory
The BLM has to be open to the process	<i>[The] challenges sort of stem from that history and the reluctance of the agency to even have a RAC and I think they express that hesitation by trying to constrain some of what the RAC does;</i> <i>I know before I got on the RAC the State Director didn't use the RAC at all. They had meetings that weren't particularly productive at all, and sometimes that State Director just didn't convene the RAC because I think there was some question as to whether that RAC would go in the direction that director wanted it to go in.</i>	Empowerment and Engagement
The design structure	<i>There is a balance to be found between creating the guidelines, providing the cemented structure to get people inside, and letting go of the reigns a little, finding the space within those guidelines to move around.</i> <i>I think you need a little bit of a sense of mission when you put these collaborative groups together. Perhaps if the BLM could produce a bit more sense of mission, and perhaps that's really the option of the State Director, the Secretary isn't going to get involved in that, but if the State Director was motivated to use that RAC and has any administrative skills at all, he or she could find some things that not only meets his or her needs but also takes advantage of the various skills and informational levels that that appointed RAC brings</i>	Empowerment and engagement, Self-organization
Time Commitment	<i>That's a real challenge, the learning curve, and getting up to speed to really feel valuable.</i>	Empowerment, Efficiency
The agenda	<i>We don't design our own agenda and the agenda is usually pretty banal.</i> <i>We didn't seem to have an agenda that anyone was interested in polling us in.</i>	Self-organization
The appointment process	<i>You're constantly taking on new members, and...because the old members are no longer official, and the new members haven't been approved, you run the risk of not having a quorum.</i>	Efficiency and efficacy
Public engagement	<i>...it's supposed to be a conversation between the RAC members, who are representing the public and the BLM...opportunity for public input at every meeting...but it's not really designed to solicit public input because the RAC members themselves are supposed to be the public input...If every one of those was a public meeting, you would just get distracted</i>	Inclusiveness

Table III – IV: Process Design Theory

Model Theory	Representative Quote(s)	Correlation with evaluation criteria
<p>Recruit diverse interests.</p> <p>Put the focus on the interests.</p>	<p><i>BLM does an excellent job in selecting the RAC members; people who are willing to work together.</i></p> <p><i>A RAC is only as good as the representation that's on it...</i></p> <p><i>To me the biggest value is that we have a broad range of interests and opinions and backgrounds, [and] when you bring all those people together you get a diverse set of viewpoints on what the BLM is doing...</i></p>	<p>Representation and Inclusiveness; Procedural Fairness</p>
<p>Involve interests in deliberative dialogue.</p> <p>Build loop-backs to negotiation</p>	<p><i>[The RAC is] such a cross section of people. You don't agree with everybody's philosophies...but you just have to work together and try to find some common ground.</i></p>	<p>Deliberativeness, Shared Purpose, Self-organization, Builds Social and Political Capital.</p>
<p>Provide opportunities to compare options.</p> <p>Arrange in a low-to-high cost sequence</p> <p>Consultation before...</p>	<p><i>To come up with position statements and recommendation letters to our state BLM agency that they could put in an EIS, I think that speaks volumes for a group of citizens that have varied interests</i></p> <p><i>...everybody gets to look at what the proposals are prior to the meeting. We'll have...representation of each category on the sub-groups, and getting information out prior to our meetings so you have an opportunity to take a look at it...if it's a point that we can't reach unanimous decision then we'll send it back to the sub-group until the next meeting</i></p>	<p>Deliberativeness; Ends Stalemate; Builds Consensus;</p>
<p>Effect change by applying citizen input to decision making and implementation.</p> <p>Provide necessary motivation, skills, and resources.</p> <p>...feedback after</p>	<p><i>People know each other, work together, respect each other, they're willing to make compromises.</i></p> <p><i>You come to respect the other side...</i></p> <p><i>It's a trust building experience...</i></p> <p><i>Overall, I think they've been pretty successful at talking through issues and reaching consensus.</i></p>	<p>Engagement and Empowerment; Produces Agreements, Shared Information Resources, Increases Creativity, and Ends Stalemate</p>

Appendix IV: RAC Recommendations and Advice Table

RAC	Arizona	Utah	Wyoming	Colorado FR
Recommendations or Advice	Secretary's Themes and Priorities – BLM asking for advice. (Jan 2014)	FEB '14 RAC MEETING - DEVOTED to developing advice to BLM on Sage Grouse DEIS - RAC advice: Not picking an alternative but saying, BLM should continue to work for ways to bring the two (State and FWS plans) alternatives closer together... (Feb 2014)	Analyzed WH&B subcommittee position paper - no recommended changes (Nov'13) Suggested WH&B position paper may need to be reissued to reinforce recommendations	Letter of Support for Pikes Peak National Historic Trail
	Sonoran Landscape Pilot Project – recreation, education and outreach strategy – BLM asked RAC for advice – no recommendations yet (Jan 2014)	NLCS strategy - rewrite document w/ general public as intended audience. MOTION - RAC recommends the BLM review summary and comments from the RAC as guide to rewrite of the document to bring back to the RAC by June 21 st	Recommendation: Assemble a bentonite and uranium working group to consider: streamlining approval process, (3809 working group)- (Mar'14)	
	Advice on EA for AMP – suite of recommendations re: fence removal, weed control, watering sites, adjusted grazing limits. (May 2014)	Recreation and Fees – all three approved (Feb 2013)	BLM should implement regulatory mechanisms (9-plan); control cheatgrass; control juniper; reclamation and restoration of disturbances; engage SGIT and local working groups (June'14)	
	Suggesting re-writing a protocol to adjust how the RAC and RecRAC work together - motion passed (May 2014)	Grand Staircase-Escalante NM Fee proposal - Approved unanimously (Jan'14)	Transparency Position paper provided recommendations on enhancing roles in the planning process; BLM WY will incorporate recommendations into next revision of Instruction Memorandum (IM) that guides staff (Sept'14)	
	Climate Change and Healthy Landscapes (Sept. 2014)	Moab FO Rec Fee proposal - Approved unanimously (Jan'14)	Recommendation - BLM should collaborate w/ local certified governments during cultural consultation process on Cultural issues	
		Forest Service - three fee proposals - approved unanimously (Jan'14)		

		Special Recreation Permit Fee proposal and roles/ responsibilities of the RAC/FS/BLM under REA (Aug'14) MOTION - RAC to write a letter to Secretary expressing frustration and discontent change affecting BLM Utah's ability to provide quality recreation experiences - CC'd to congressional delegation.		
Sub-RACs	Arizona Sub-RACs	Utah Sub-RACs	Wyoming Sub-RACs	Colorado FR Sub-RACs
	Grazing - see recommendation #1 above		3809 work group - id 6 areas for potential streamlining: pre-scoping; improve communication between BLM+DEQ; improve Fed Register notice process; clarify section 106; Refine NEPA documents; Training on 3809 procedures (June'14)	Royal Gorge RMP – formed Aug 2014
	Section 106		Transparency and openness in NEPA RAC subgroup	
	Wild Horse and Burro			
	Friends Groups and Partnerships (Sept. 2014)			

RAC	Colorado NW	Colorado SW	Idaho – Boise	Idaho – CDA
Recommendations and Advice	Wild horse roundtable with public to discuss management options – keep it on the agenda (May 2014)	BLM asked RAC to help with concepts to keep wild and domestic sheep separated (Aug 2013)	Member asks for BLM to focus on presenting to the RAC challenges and opportunities rather than status updates (Nov 2012)	Increase in Recreation Fees at four sites (Feb 2012)
	Wild Horse Resolution - Supporting sand wash pilot area project - motion seconded, vote will be via email. (May 2014)	Seeking RAC input on land acquisition in Tres Rios - Contiguous parcels; Riparian habitat areas (May 2014)	DRAFT letter to O.C. Commissioners presented - RAC decided to talk to other ID RACs before sending the letter. (April 2013)	Discussion on: Natural Resource Damage Assessment & Restoration Program – Role of the RAC? Involved in work on BLM lands; letters of support for projects. (Feb 2012)
	RAC proposes: Writing a letter to National Wild Horse Advisory Board with suggestions of ideas, writing to other RACs. (May 2014)		Motion: RAC provide a resolution in favor of the Paradigm Project - motion passed (Jan 2014)	Sheep Fire Salvage Timber Sale RAC to support timber sale – unanimous; RAC to draft letter of support (March 2013)

	Sutey Ranch Land Exchange – Acquisition presents opportunity for RAC to be involved in management (Aug 2014)			RAC to draft letter to send to State Director requesting more Emergency Stabilization and Rehabilitation (ES&R) funds (March 2013)
	NW RAC passed resolution supporting chemical vasectomy in Sand Wash (Aug 2014)			
	BLM looking for support from RAC to move forward with proposal for North Sand Hills – vote forthcoming (Aug 2014)			
	HORSE RESOLUTION - draft a letter to other RACs to collectively solve problems, encourage better volunteer participation. (Dec 2014)			
Sub-RAC	Colorado NW Sub-RACs	Colorado SW Sub-RACs	Idaho Boise Sub-RACs	Idaho CDA Sub-RACs
	Fencing – recommended BLM do more fencing for permittees – committee dissolved (March 2014)	Uncompahgre FO RMP – RAC approved using sub-group for RMP/public outreach	BLM Requested that RAC form a sub-committee to work on the project: to review resources and make recommendations (Nov 2013)	
	Colorado River Valley FO RMP -	Oil and Gas – intent of the group was public education (Aug 2013) Important for group to hear concerns outside of public comment periods (Nov 2014).	Will designate a sub-committee to work w/ local WH&B program (Jan 2014).	
	White River FO TMP – BLM asked RAC to form sub-group – Sub-group formed w/ vote (December 2014)			

RAC	Idaho – ID Falls	Idaho – Twin Falls	Montana East	Montana Central
Recommendations or Advice	RAC members encouraged to network/solicit for new RAC members (Jan 2013)	Motion: Draft a response, not going to take on the issue (ID Standards and Guideline Review) at this time - passed (June 2013)	Pumpkin Creek Area recreation development and Restoration - What RAC involvement? - hope for help in seeking public comments for use; increase public awareness (March 2013)	Campground Fees – support fee increases – passed unanimously (May 2013)

	Caribou-Targhee NF proposed cabin rental fee - Motion to approve fee passed unanimously (April 2013)	Sage Grouse DEIS discussion/recommendation - RAC to support ALT E w/ adjusted mapping to include more leks (use maps from ALT D). Motion Passes: 12:1; 3 abstain (Jan 2014)	BLM asked RAC to be ready to approve or propose Pompey's Pillar plan at next meeting (March 2013)	Lewistown RMP - BLM Asked RAC to be involved in the process - taken under consideration no commitment for a sub-group but commitment from entire RAC to look at RMP (Sept 2013)
	Salmon/Challis NF Rec Fee proposal – Unanimous approval of new and increased fees (Jan 2014)	Planning 2.0 - RAC expressed concerned about this weakening the voice of the RAC (June 2014)	Pompey's Pillar motion to approve the new fee schedule – approved (Sept 2013)	RAC was asked to change the way public comment period was run. Public comment is not to carry on dialogue... We don't interact with the public so we can have a productive meeting and not debates. (May 2014)
			NLCS Letter: overall supportive of NLCS strategy – approved unanimously (sept 2013)	Request: add land swap/monument to agenda (May 2014)
			Motion made and passed - letter of support for WMT RAC proposal to extend RAC members terms beyond 3 years until Secretary appoints new member (May 2014)	Missouri Breaks Interpretive Center Fee increase – passage unclear (May 2014)
				The Central Montana RAC endorses Director Kornze's proposal to revamp the BLM's Planning Process. (May 2014)
				The term of a RAC member will end after 3 years; however if upon expiration of the member's term, a replacement has not been appointed, the outgoing term will be extended until the Secretary has appointed a person to fill that position (May 2014)
Sub-RACs	Idaho Falls Sub-RACs	Idaho Twin Falls Sub-RACs	MT East Sub-RACs	MT Central Sub-RACs
	Sub-committee formed for Curlew/Deep Creek TMP (Aug 2013)	Sage Grouse Sub-committee will meet in Nov. (Sep 2013)	Pumpkin Creek Committee - Suggestion that RAC form a citizens committee to solicit public input	

			(Sept 2013)	
	RAC formed sub-committee to work on Pocatello TMP (Jan 2014)	Jarbidge RMP (Jan 2014)	Pumpkin Creek Committee officially formed - develop a proposal/ recommendation to BLM to finalize a multiple use plan for area (May 2014)	
	Considering sub-committee to review Thompson Creek Mine Draft EIS (Jan 2014)	Wild Horse and Burro (Jan 2014)		
		Gateway West (Jan 2014)		
		Cedar Fields and Castle Rocks Closures (Jan 2014)		
		Sage Grouse (Jan 2014)		

RAC	Montana Western	NM – Albuquerque	NM – Farmington	NM – Las Cruces
Recommendations and Advice	Approve recommendations on Rec Fees (March 2012)	Rio Puerco RMP – recommendations highlighted preferred options (July 2014)	Glade Run Recreation Area - Draft management plan – Deliverables for the RAC = Letter of support. (Feb 2013) RAC MOTION - support alt. A - passed unanimously (Feb'14)	BLM asked for assistance from the RAC with recreation access issues (April 2013)
	Forest Service - Earthquake Lake Visitor Center fee elimination - approved (March 2012)	Tent Rocks Monument is underfunded - Proposing to increase fees. Proposal will be brought to RAC at a later date. (July 2014)	Public Comment Periods - MOTION - follow sign-in protocol, limit speakers to five minutes, and disallow questions and answers - passed unanimously (Feb 2014)	TriCounty RMP – BLM wants the use of firearms to be safe and in a proper area – Requests RAC assistance (Aug 2013)
	MOTION - reiterate and support 2007 shooting restriction recommendations - passed unanimously (March 2012)	Discussion: What should RAC be? Concerned that meetings are mostly informational; limited time to develop recommendations. BLM to provide information. Agenda and priorities need to be set by RAC. RAC should help with issues people are interested in before they get angry. (July 2014)	Tri-State Corridor - RAC to help on Management Plan (NOV 2013)	BLM Asked RAC to keep own route inventory; attend training for travel management. (April 2014)
	Missouri River Recreation Fees – unanimously approved (June 2012)		Cebolla O&G EA - BLM asking for help to id information on a variety of issues for NEPA. (NOV 2013)	

	<p>Discussion re: prioritizing timber salvage - beetle killed trees. RAC would like feedback from BLM on how areas are prioritized (June 2012)</p>		<p>Mancos/Gallup Shale RMP amendment - BLM request RAC assistance in addressing all issues that need to be addressed (NOV 2013)</p>	
	<p>USFS Fee proposal - Passed unanimously (Aug 2013)</p>		<p>Chaco Canyon - BLM request RAC assistance in developing plan for leasing around National Historic Park; BLM feels EIS and NEPA proper place for public involvement (NOV 2013)</p>	
	<p>Motion for BLM to add Henneberry House to the cabin rental program. Unanimous. (Aug 2013)</p>		<p>Monument designated in March '13; BLM developing management plan - focus on public involvement - RAC to help developing alternatives (Nov 2013)</p>	
			<p>Planning 2.0 - BLM wants input from RAC on how to improve the process (May 2014)</p>	
Sub-RAC	MT West Sub-RACs	NM Albuquerque Sub-RACs	NM Farmington Sub-RACs	NM Las Cruces Sub-RACs
	<p>Subgroup - REC fees</p>	<p>RMPs (Dec 2013)</p>		
	<p>Subgroup developed to review EIS for Mid States Transmission Intertie (MSTI).</p>	<p>EI Malpais NCA (Dec 2013)</p>		
	<p>Timber Subgroup - Asking BLM to prioritize resources to address dying timber</p>	<p>Forestry Work (Dec 2013)</p>		