University of Montana

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NRSM 513.01: Natural Resource Conflict Resolution

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NATURAL RESOURCES CONFLICT RESOLUTION

LAW 613 / ENST 513 / NRSM 513
The University of Montana
Payne Family Native American Center, Room 105

Fall 2021   Office Hours
Monday   By Appointment
1:00 to 3:50

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Course Description

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

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

The core proposition of this "collaborative" approach to preventing and resolving conflicts is that it provides more meaningful opportunities for citizen participation, fosters more

informed decisions, produces more durable and widely supported outcomes, improves working relationships, and minimizes the costs of disputing. Furthermore, many complex natural resource challenges cannot be adequately addressed without employing collaborative approaches that work across jurisdictions, sectors, and perspectives. Although it emerged largely in the context of natural resources and environmental policy, the collaborative approach to citizen participation and public dispute resolution is applicable to a wide-range of public issues.

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

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

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

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

Throughout the semester, we will take advantage of opportunities to share the ongoing work of the Center for Natural Resources & Environmental Policy. Realizing that this course focuses on natural resource conflict resolution in the United States -- particularly the American West -- we will also attempt to integrate best practices from around the world and to explore how the American experience might be instructive in other regions of the world.

Readings for the course are available on the university's Moodle site. The professor may occasionally provide supplementary reading.

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

COURSE OVERVIEW

Part 1: Historical Perspectives

Session 1   The Nature of Natural Resources Conflict   Aug. 30

Session 2   Civic Engagement   Sept. 13

Session 3   The Role of Law, Policy, and Regulation   Sept. 20

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

Session 4   The Emergence of Negotiation and Mediation   Sept. 27

Session 5   Community-based Collaboration   Oct. 4

Session 6   Scaling Up to Systems-based Solutions   Oct. 11

Part 3: Theory and Methods of Collaboration

Session 7   Reflecting on Collaboration: Critiques and Indicators of Success   Oct. 18

Session 8   Analyzing the Conflict or Situation   Oct. 25

Session 9   Designing an Effective Collaborative Process   Nov. 1

Session 10   Building Agreement on Scientific and Technical Information   Nov. 8

Session 11   Deliberating and Deciding   Nov. 15

Session 12   Implementing Agreements and Adaptive Management   Nov. 22

Part 4: Innovations in Theory and Practice

Session 13   Toward More Effective Outcomes   Nov. 29

Session 14   Future Horizons for Collaborative Approaches   Dec. 6

Final Exam / Student Presentations: 1:10 – 3:10 PM   ***Dec. 15***

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

Attend and Participate in Class = 28 points
The essence of collaboration is "informed engagement." To practice this core skill-set, you will receive a maximum of 2 points for every class for a total of 28 points. Given that class sessions rely on dialogue and conversation, each student should read the required reading prior to class, be ready to discuss the readings, and fully engage in discussion and simulations. The goal is to engage the entire class, not just a few committed students. *If class participation and discussion is poor, unannounced pop-quizzes may be given.* If you cannot attend class and let the professor know in advance, you may earn 1 point by completing all of the reading assignments for that class and preparing a critical essay on the readings in the context of the unfolding narrative of the class. Unexcused absences will earn you zero points.

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

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

The presentation and discussion will be graded using the following criteria:

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

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

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

readings?

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

Write a Professional Memo = 25 points (10 points for draft / 15 points for final)
One of the most important skills to learn as a graduate student – regardless of your career path – is how to think critically and write concisely. The goal here is not to write another 30-page research paper. More times than not, when you enter the workforce you will be asked to do just as much research as you would for a 30-page paper, but to then synthesize the information into a short memorandum. The purpose of this assignment is to provide you an opportunity to explore more thoroughly and thoughtfully a particular issue related to natural resources conflict and collaboration. It is also an opportunity to apply some of the theory and methods reviewed during class sessions.

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

Potential topic areas include but are not limited to the following:
1. Water policy, conflict resolution, and governance
2. Public lands law, policy, and conflict resolution
3. Large landscape and Transboundary conservation
4. Tribes, indigenous peoples, and natural resource management
5. Environmental peacemaking
6. International trends and case studies in natural resource policy, conflict resolution, and governance

By Session #7 (October 18), each student should submit a full draft of her or his professional memo for the professor's review. The professor will then schedule 30-minute sessions with each student to provide feedback on these drafts and answer any questions a student has. **Final memos are due by midnight on Sunday, December 13th**.

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

Produce a Short Film or Podcast = 15 points
Telling an engaging story about an issue, idea, success, or challenge is one of the most critical skills to learn as a conservation leader. Increasingly, short videos and podcasts are being used to engage audiences of all ages in the most critical issues facing our communities and landscapes.

Working in the same small groups as you did to prepare a class seminar, you will design and produce a 3-5 minute short film or 10-20 minute podcast on an issue of shared interest/concern. The final product will be graded based on the following criteria:

- Ability to tell a compelling story = 10 points
  Did the film or podcast have a clear message? Did the elements of the film or podcast come together in a cohesive way? Was there a clear take away message or call to action?

- Group self-evaluation = 5 points
  Each small group will evaluate the other members of the group for their engagement and contributions to the project (1 point = minimal effort/engagement; 5 points = fully engaged and contributing)

Observe Two or More Collaborative or Conflict Resolution Processes = 5 points
Gaining insight into actual conflict resolution or collaboration processes is an important aspect of understanding the theory and methods explored in this course. Throughout the semester we will share opportunities for you to observe, support, or facilitate a variety of conflict resolution or collaborative-based processes. Opportunities may include standing meetings, conferences, or other multi-stakeholder processes both on-line and in-person. You will be required to engage in at least two experiences or two hours of a collaborative or conflict resolution-based process around a natural resources issue(s) by the end of the semester.

Final Exam = 12 points
Using the short essay by Lawrence Susskind "Fifteen Things We Know about Environmental Dispute Resolution," please articulate the top ten things you know about natural resources conflict resolution. Use the format of the Susskind essay by writing concise, compelling statements that clearly state the "what" and "why." Please include appropriate citations. **Your essay is due by 5:00 pm on Friday, December 17**.

Grading Scale

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

Student Conduct Code

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

Important Dates for Dropping a Course, Fall Semester 2021:

Deadline	Description	Date
The 15th instructional day	Students can drop classes on CyberBear with a refund and no "W" on her or his transcript.	Sept. 20 = last day
16th to 45th instructional day	Dropping a class requires completing a form with the instructor's and advisor's signature as well as a $10 fee from registrar's office. The student will receive a 'W' on transcript; no refund will be issued.	Sept. 21 through Nov. 1
Beginning the 46th instructional day	Students are only allowed to drop a class under very limited and unusual circumstances. Not doing well in the class, deciding you are concerned about how the class grade might affect your GPA, deciding you did not want to take the class after all, and similar reasons **are not** among those limited and unusual circumstances. If you want to drop the class for these sorts of reasons, make sure you do so by the end of the 45th instructional day of the semester. Requests to drop must be signed by the instructor, advisor, and Associate Dean (in that order), so if you pursue this request, leave sufficient time to schedule meetings with each of these individuals (generally this will take at least 3-5 working days). A $10 fee applies if approved. Instructor must indicate whether the individual is passing or failing the class at the time of the request.	Nov. 2 – Dec. 10

Students with Disabilities

The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and the Office for Disability Equity. If you have a disability that adversely affects your academic performance, and you have not already registered with Office of Disability Equity, please contact the Office of Disability Equity in Lommasson Center 154 or 406-243-2243. Please also contact the Office for Disability Equity if you require a COVID-related accommodation to safely attend class. We will work with you and the Office for Disability Equity to provide an appropriate modification.

COVID-19

The University of Montana is currently ***requiring*** everyone to wear a facemask in classrooms, laboratories, and several other spaces on campus to reduce the spread of COVID-19 and protect everyone in our community – especially those at high risk of severe illness if infected. Additionally, we will strive to take advantage of outdoor spaces on campus and encourage physical distancing in the classroom. We also pledge to be flexible and accommodating and will ensure that you can connect to class via Zoom if needed. We care about you and our community's health and wellbeing.

1. THE NATURE OF NATURAL RESOURCES CONFLICT

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

Readings

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

Questions and Discussion

1. What is "good" natural resources policy? If everyone agrees, then why is there so much conflict?

2. What is conflict, and what are your perceptions or feelings about conflict? What are some common connotations about conflict? Is conflict good, bad, or both? Is conflict fair, just, and equitable?

3. What are the central elements of any conflict? Review the typical sequence of a natural resource or public policy conflict to clarify how these elements interact and influence one another.

4. What causes natural resources and environmental conflicts? Discuss why it is important to understand the cause and/or nature of natural resource conflicts in order to effectively manage and resolve them. Why is process so important to prevent, managing, and resolving natural resource conflicts?

5. Assess your personal style or approach to conflict by completing the *Thomas-Kilmann Conflict Management Assessment*. Discuss the merits of alternative personal approaches to conflict management.

2. CIVIC ENGAGEMENT

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

Readings

1. Daniel Kemmis, Community and the Politics of Place (1990): 9-16.
2. Daniel Kemmis, This Sovereign Land: A New Vision for Governing the West (2001): 124-126. *[See Session 5 For This Reading]*
3. Thomas C. Beierle and Jerry Cayford, Democracy in Practice: Public Participation in Environmental Decisions (2002): 2-4.
4. Thomas Dietz and Paul C. Stern, eds., Public Participation in Environmental Assessment and Decision Making (2008): 36-52.
5. Center for Natural Resources & Environmental Policy, Public Participation: Lessons Learned Implementing the 2012 US Forest Service Planning Rule (2015): 20 Pages.
6. Sherry Arnstein, A Ladder of Citizen Participation (1969): 216-18.
7. Daniel Yankelovich, The Magic of Dialogue: Transforming Conflict into Cooperation (1999): 169-176.
8. International Association for Public Participation, Core Values, Code of Ethics, Spectrum, and Tools of Public Participation (2010): 18 Pages.

Questions and Discussion

1. The basic question Jefferson and Madison attempted to answer in creating the U.S. Constitution was ... "should the burden of solving public problems rest most directly on citizens or on government?" Explain the philosophical arguments of Jefferson and Madison and explore the implications to natural resources policy and conflict resolution. Which philosophical framework do you most agree with and why?

2. Why should citizens be involved in natural resource decisions? What are the arguments supporting citizen participation? What are the arguments against?

3. Review the legal framework for public participation. How well does this legal framework support one or more of the reasons to involve citizens in natural resource decisions?

4. What are the most surprising lessons that emerge from the study on public participation under the 2012 national forest planning rule? Using the classic framework provided Arnstein, where on the "ladder of citizen participation" does public participation on national forest planning seem to fall and why?

5. "What is missing" in conventional public participation processes? And what are the pitfalls or problems related to public participation in natural resource decision-making? Identify what citizens want in a public process, and why they don't

participate. Using examples, explain the difference between the "*Decide-Announce-Defend*" model of public participation in contrast to the "*Always Consult before Deciding*" model of public participation.

6. How do the values, principles, and methods promoted by the International Association for Public Participation (1) reflect the idealized objectives of public participation? and (2) address some or all of the problems associated with public participation?

3. THE ROLE OF LAW, POLICY, & REGULATION

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

Readings

1. Matthew McKinney, Wolf Management in the Northern Rocky Mountains: A Case Study on the Role of Litigation in Natural Resources Policy (2015): 30 Pages.
2. Martin Nie, The Underappreciated Role of Regulatory Enforcement in Natural Resource Conservation (2008): 147-151.
3. Joseph L. Sax, Defending the Environment: A Strategy for Citizen Action (1971): 108-124.
4. Lawrence S. Bacow and Michael Wheeler, Environmental Dispute Resolution (1984): 12-18.
5. Christopher M. Klyza and David J. Sousa, From "Who Has Standing?" to "Who Is Left Standing?": The Courts and Environmental Policymaking in the Era of Gridlock (2013): Selected Pages.
6. Matthew McKinney, Should Natural Objects Have Standing? From Environmental Ethics to Environmental Law (2015): 3 Pages

Questions and Discussion

1. To appreciate the place of litigation and the courts in natural resources policy, read the wolf management case study. Start by reviewing the facts of the case.
   a. What is the origin and cause of this conflict (think in terms values, interests, data, institutional arrangements, relationships)?
   b. How has litigation influenced wolf management policy as well as the use of alternative conflict resolution strategies? What is Martin Nie's basic argument along these lines?
2. According to Sax, as well as Bacow and Wheeler, what are the arguments for and against litigation and the courts as a way of making decisions and resolving natural resource conflicts?
3. What is the most appropriate use of litigation and the courts? When is it most appropriate? Least appropriate? Why do some groups prefer litigation over other approaches to influence policy and management? Consider the four criteria for determining "which approach is best."
4. Given the cost and benefits of litigation to resolve natural resource conflict, should the core issue of "standing" be reconsidered? Who should participate in governing or making decisions about the use of natural resources? Should natural objects have standing?

4. THE EMERGENCE OF NEGOTIATION AND MEDIATION

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

Readings

1. Matthew McKinney, Building Agreement on Water Policy: From Conflict to Community (1997): 17 Pages.
2. Matthew McKinney and Will Harmon, The Western Confluence (2004): 201-215.
3. Matthew McKinney, Collaborative Approaches to Natural Resource Policy: Key Elements (2011): 2 Pages.
4. Gail Bingham, Resolving Environmental Disputes: A Decade of Experience (1985): 14 Pages.
5. Sarah Bates, The Legal Framework for Cooperative Conservation (2006): 24 Pages.

Questions and Discussion

1. Using the case study on instream flow policy, discuss the following questions:
    a. What *compels* individuals and organizations to negotiate or collaborate?
    b. What *constrains* environmental negotiation?
    c. What *enables* participants to be successful? In other words, what are the key elements to success (e.g., the role of mediators)?

2. How does this case study reveal new roles for citizens, experts, and decision-makers in resolving natural resource conflicts and shaping natural resources policy? Reflect on the difference between public *participation* and shared *decision-making*. Does this case amount to official decision-makers (e.g., legislators, agencies, and so on) abdicating their decision-making authority?

3. What does this case study suggest in terms of a prescriptive framework or phases to environmental negotiation and collaboration? Does this framework suggest that multiparty negotiation is a linear process, or is it more dynamic?

4. What lessons does the Bingham article suggest in terms of the history and trajectory of natural resources conflict resolution? Think in terms of place-based and policy-oriented applications, as well as ad hoc vs. more systematic, institutionalized applications.

5. Refer to the readings on the legal framework for environmental negotiation, mediation, and collaboration. How, if at all, does this framework catalyze, enable, and constrain such processes in practice?

5. COMMUNITY-BASED COLLABORATION

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

Readings

1. Charles F. Wilkinson, Law and the American West: The Search for an Ethic of Place (1988): 404-410.
2. Daniel Kemmis, This Sovereign Land: A New Vision for Governing the West (2001): 117-149.
3. Martin Nie and Michael Fiebig, Managing National Forests through Place-Based Legislation, *Ecology Law Quarterly* (2010): 22 Selected Pages.
4. Lexi Pandell, What Stewardship Looks Like in the Santa Cruz Mountains, *Bay Nature Magazine* (2020).

Questions and Discussion

1. According to Wilkinson, what is the "ethic of place?" What are the key components of this "ethic of place?" What is Wilkinson's core argument in support of such a theory and practice?

2. Referring to the narrative by Kemmis, examine the history and theory of the citizen-driven, place-based collaboration. What catalyzed this "movement?" What enabled individual cases to be successful, or not, as the case may be? Which cases are most interesting and compelling, and why? What other examples of community-based collaboration are you familiar with? Are they successful or not, and why?

3. How is the citizen-driven, place-based collaboration movement similar to and/or different from the more conventional theory and practice of environmental conflict resolution discussed in Session 4?

4. Assuming that homegrown, community-based collaboration works, can agencies catalyze, convene, and successfully coordinate such initiatives? Why or why not (see Kemmis)?

5. What is the issue or concern about delegating decision-making authority to community-based collaborative groups? What options or strategies do Kemmis and others suggest in response to this challenge?

6. Why have some community-based collaborative groups taken it upon themselves to draft legislation to implement their negotiated agreements? What are the merits – pro and con – of this trend (see Nie and Feibig)?

6. SCALING UP TO SYSTEMS-BASED SOLUTIONS

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

Readings

1. Lynn Scarlett and Matthew McKinney, Connecting People and Places: The Emerging Role of Network Governance in Large Landscape Conservation (2016).
2. Vasilijević, M., Zunckel, K., McKinney, M., Erg, B., Schoon, M., Rosen Michel, T., *Transboundary Conservation: A systematic and integrated approach.* Best Practice Protected Area Guidelines Series No. 23, Gland, Switzerland: IUCN (2015): 45-56.
3. Bodin, Örjan, Collaborative environmental governance: Achieve collective action in social-ecological systems, Science 357, eaan1114 (2017).
4. Folke, Carl et al. Our Future in the Anthropocene Biosphere: Global sustainability and resilient societies. Beijer Discussion Paper Series No. 272 (2020): 33-47.

Questions and Discussion

1. What is the role of informal partnerships and networks in addressing large-scale natural resource challenges? How do these approaches relate to other approaches to addressing natural resource challenges explored in this course?

2. How do large-scale partnerships and networks arise? What roles do citizens, decision-makers, and practitioners play in the creation and growth of large-scale collaborative efforts?

3. How do networks work? How is information generated and distributed? How is power shared? How are priorities identified? How are roles identified? What about accountability?

7. REFLECTING ON COLLABORATION: CRITIQUES AND INDICATORS OF SUCCESS

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

Readings

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

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

Questions and Discussion

4. Review the arguments against collaboration. Which of these arguments do you find most compelling and why? Which arguments are least persuasive and why?

5. What is a successful collaborative process? Discuss the various indicators for success presented in the literature, and agree on criteria for evaluating the success or progress of a collaborative process. Discuss whether the indicators of success you have selected should be applied to other approaches to natural resources decision-making (e.g., public participation, litigation, etc.). Explore the following questions – what is good natural resources policy, and what conditions/criteria help define such outcomes?

8. ANALYZING THE CONFLICT OR SITUATION

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

Readings

1. Lawrence Susskind and Jennifer Thomas-Larmer, "Conducting a Conflict Assessment," The Consensus Building Handbook (2004): 99-136.
2. Susan Carpenter and W.J.D. Kennedy, Managing Public Disputes: A Practical Guide to Handling Conflict and Reaching Agreements (1991): 197-223.
3. Matthew McKinney, Analyzing the Conflict or Situation (2015): 28 pages.
4. Matthew McKinney, Land Use, Growth, and the Future of the Bitterroot Valley (2012).

Questions and Discussion

1. What is a situation (or conflict or stakeholder) assessment? Why do it? What may happen if you don't complete this type of assessment?

2. What challenges or obstacles may emerge in completing a situation assessment, and what strategies can be employed to avoid and/or mitigate such problems?

3. Using the case study Land Use, Growth, and the Future of the Bitterroot Valley, break into small groups. Assume "civic leaders" from the valley are interested in exploring how to move this conversation forward in light of this recent history, and have asked your team for some advice. During your small group discussions:
   - Identify what categories of people should be interviewed and why by creating a "stakeholder map."
   - Articulate 3-5 questions that you think would be most interesting and compelling in terms of assessing whether stakeholders might be ready to engage in some type of public process.
   - Use the analytical frameworks (i.e., the stakeholder map and the checklist) to determine if some type of collaboration is appropriate in this case and/or if some other type of public process might be more appropriate.
   - Using the theory and methods presented in the readings (including the IAP2 Framework), what would you recommend in terms of this case?

9. DESIGNING AN EFFECTIVE COLLABORATIVE PROCESS

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

Readings

1. Thomas Dietz and Paul C. Stern, eds., Public Participation in Environmental Assessment and Decision Making (2008): 111-135.
2. Susan Carpenter and W.J.D. Kennedy, Managing Public Disputes: A Practical Guide to Handling Conflict and Reaching Agreements (Jossey-Bass, 1991): 92-136.
3. Matthew McKinney, Designing an Effective Collaborative Process (Center for Natural Resources & Environmental Policy, 2015): 28 pages.
4. Matthew McKinney, Managing Effective Meetings (Center for Natural Resources and Environmental Policy, 2015): 13 pages.
5. Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – General Instructions for Part 1: Negotiating the Process

Questions and Discussion

1. Use the discussion paper "What Do We Mean by Consensus?" to review the key issues in designing an effective multi-party process: (a) representation – who should be involved? (b) decision-making – how will the group make decisions? (c) ground rules – to govern the process; (d) scientific and technical information – what information is needed and how will the group gather and analyze it? (e) resource constraints -- time and money. Emphasize the need to tailor the process to meet the needs and interests of stakeholders and to do so in a way that respects legal, institutional, political, cultural, economic, and scientific constraints or sideboards.

2. Practice designing a collaborative process. Prior to class, read the General Instructions for the multi-party negotiation "Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – Part 1: Negotiating the Process." The instructor will lead you through this 90-minute role-play exercise.

10. BUILDING AGREEMENT ON SCIENTIFIC AND TECHNICAL INFORMATION

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

Readings

1. Ronald D. Brunner and Todd A. Steelman, Beyond Scientific Management (2005): 1- 14.
2. Gail Bingham, When the Sparks Fly: Building Consensus When the Science Is Contested (2003): 20 pages.
3. Herman A. Karl, et al., A Dialogue, Not a Diatribe: Effective Integration of Science and Policy through Joint Fact Finding, *Environment* 49 (2007): 20-34.
4. Julia M. Wondolleck and Clare M. Ryan, What Hat Do I Wear Now? An Examination of Agency Roles in Collaborative Processes, Negotiation Journal (1999): selected pages.
5. John Robinson, The Moment is Now: Decolonizing the Conversation Around Grizzly Bears, *Beartracksdotorg* (2020).

Questions and Discussion

1. According to Brunner and Steelman, what is the historical role of science and technical experts in shaping natural resource and environmental policy? What are the implications of this legacy today?

2. What causes conflict over scientific and technical information? See the essays by Bingham and Karl.

3. What is the purpose and goal of joint fact finding? How does it differ from the conventional approach to addressing scientific and technical issues (i.e., scientific management)? What are the key steps in joint fact finding?

4. According to Wondolleck and Ryan, what are the various roles that scientific and technical experts play in making decisions and resolving conflict? What barriers may emerge in moving from the historical role of scientific and technical experts to the framework suggested by Wondolleck and Ryan?

5. Apply the theory and methods of joint fact-finding to the Grizzly Delisting Case Study.

11. DELIBERATING AND DECIDING

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

Readings

1. Lawrence Susskind, Paul Levy, and Jennifer Thomas-Larmer, The Mutual Gains Approach (1999): 1-40.
2. Susan Carpenter and W.J.D. Kennedy, Managing Public Disputes: A Practical Guide to Handling Conflict and Reaching Agreements (1991): 137-154.
3. Matthew McKinney, Best Practices: Deliberating and Deciding (2015).
4. Matthew McKinney, The Role of Facilitators and Mediators (2012): 29 pages.
5. Lawrence Susskind, et al., The Five Lives of a Neutral: The Roles and Resources of Neutrals in Multiparty Negotiation (2003): 138-142.
6. Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – General Instructions for Part 2: Negotiating the Issues.

Questions and Discussion

1. What are the key elements of mutual gains negotiation, and "why" is each one of these elements critical for success?

2. In light of these key elements and given the natural stages of group development, how would you sequence issues in a way to build trust, respect, communication, understanding, and ultimately agreement? What strategies might be effective in managing group dynamics (e.g., using caucuses away from the table to clarify interests, options, and packages; building coalitions among diverse interests to package options; etc.)?

3. How important is it to engage an impartial, nonpartisan facilitator and/or mediator to help catalyze, convene, and coordinate a multiparty negotiation or collaboration process? What value does a "process manager" add? What roles and resources can they play as a neutral process manager (see "Five Lives" essay)?

4. Practice participating in a collaborative process, either as a negotiator or a mediator. Prior to class, read the General Instructions for the multi-party negotiation "Rocky Mountain Spotted Trout: A Resource Management Dispute on Federal Lands – Part 2: Negotiating the Issues." The instructor will lead you through this role-play exercise.

12. IMPLEMENTING AGREEMENTS AND ADAPTIVE MANAGEMENT

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

Readings

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

Questions and Discussion

1. Using the case study "Land-Use Planning in Sweetwater County: Best Practices for Common Implementation Problems," examine some of the common problems related to implementing negotiated agreements. Review the problems and strategies identified in readings 2-4 listed above.

2. One challenge common to most, if not all, natural resource policy and conflict resolution is how to make decisions in the face of uncertainty – scientific, political, institutional, and so on. The reality is that we make decisions every day based on incomplete knowledge and information.

   a. Explain the dimensions of this problem as suggested by the readings.
   b. While the idea of adaptive management makes a lot of sense, why is it so difficult to implement in practice?
   c. What are the key ingredients to effective adaptive management in practice?

13. TOWARD MORE EFFECTIVE OUTCOMES

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

Readings

1. Daniel Kemmis, This Sovereign Land: A New Vision for Governing the West (2001): 128-142 (*see reading in Session 5*).
2. Julia M. Wondolleck, A Crack in the Foundation? Revisiting ECR's Voluntary Tenet, Conflict Resolution Quarterly (2010): 5 selected pages.
3. Robert A. Baruch Bush and Joseph P. Folger, The Promise of Mediation: The Transformative Approach to Conflict (2004): 15-32.
4. Tema Okun, White Supremacy Culture (1999).
5. Daniel Kemmis and Matthew McKinney, Collaboration and the Ecology of Democracy, Kettering Foundation (2011).
6. John Kania and Mark Kramer, Collective Impact, Stanford Social Innovation Review (2011): 36-41.
7. Amy Mickel and Leah Goldberg, Generating, Scaling Up, and Sustaining Partnership Impact: One Tam's First Four Years (2018): 4-21.

Questions and Discussion

1. How has negotiation and collaboration been integrated into natural resource decision-making over the past 20-25 years? How does the theory of dispute systems design support this trend? What are some of the concerns or drawbacks to this trend (see Wondelleck and Kemmis)?

2. How, if at all, does the theory and practice of collaboration, particularly the organic emergence of community-based collaboration, suggest a new political theory? What are the practical implications of this theory to natural resource policy and conflict resolution?

3. How, if at all, can the practice of conflict resolution and collaborative problem solving be transformative?

    a. Do the theories and methods taught in this course adequately advance social and environmental justice?

4. In addition to collaboration, several other models of problem-solving, social change, and governance have emerged during the past decade that may improve the effectiveness of natural resources policy, conflict resolution, and governance.

a. How are the theories and practices of collective impact and network governance similar to and different from collaboration?
b. What are the implications of all these models to leadership? In other words, what type of leaders do we need to shape wise, durable solutions to natural resource problems?

14. FUTURE HORIZONS OF COLLABORATIVE CONSERVATION

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