

Collaborative Planning on State Trust Lands:

A University of Michigan Study

*for the State Trust Lands Partnership Project
of the Sonoran Institute and the Lincoln Institute of Land Policy*



About the Study:

Collaborative planning on state trust lands was identified for further research at the 2004 State Trust Lands Research and Policy Analysis Roundtable convened by the State Trust Lands partnership project of the Sonoran Institute and the Lincoln Institute of Land Policy. In March 2005, under the guidance of Dr. Steven L. Yaffee, a team of eight graduate students from the University of Michigan School of Natural Resources and Environment began conducting a region-wide survey and analysis of eight case studies in which state trust land agencies collaborated with stakeholders in trust land planning and management. The research team conducted 117 on-site and telephone interviews, each lasting roughly one to three hours. Through these interviews, the team answered a set of research questions concerning the benefits, challenges, costs and outcomes of collaborative planning on state trust lands. The goals of this research were to:

- Capture on-the-ground experiences of collaborative planning on state trust lands
- Analyze the advantages and disadvantages of this trust land management approach
- Distill a set of best management practices
- Provide broader recommendations for overcoming barriers to collaborative planning on state trust lands

Authors:

Stephanie Bertaina, Alden Boetsch, Emily Kelly, Eirin Krane,
Jessica Mitchell, Lisa Spalding, Matt Stout, Drew Vankat, Steve Yaffee

Sponsors of this Study Include:



The Sonoran Institute promotes community decisions that respect the land and people of Western North America. Facing rapid change, western communities recognize and value the importance of their natural and cultural assets – assets that support resilient environmental and economic systems. The Institute offers tools, training and sound information for managing growth and change, and we encourage broad participation, collaboration and big-picture thinking to create practical solutions. The decisions communities make about using land, water and other resources affect their prosperity and quality of life today and in the future. www.sonoran.org



The Lincoln Institute of Land Policy is a nonprofit educational institution based in Cambridge, Massachusetts. Through courses, conferences, research, publications, demonstration projects and other outreach programs, the Institute seeks to improve the quality of debate and disseminate knowledge of critical issues in land policy by bringing together scholars, policy makers, practitioners and citizens with diverse backgrounds and experience. www.lincolninst.edu



The Ecosystem Management Initiative promotes landscape-scale conservation and sustainable natural resource management. Through short courses, dialogues, graduate student training and action-oriented research, the Initiative works to advance the knowledge and skills necessary for collaborative, adaptive ecosystem management. Over the last ten years, EMI has evaluated the progress of a large set of collaborative efforts in order to identify best practices, policy recommendations and tools that enable individuals and organizations to become more effective at managing resources and building sustainable communities. www.snre.umich.edu/ecomgt/



The University of Michigan School of Natural Resources and Environment is dedicated to advancing the protection of the Earth's resources and the achievement of a sustainable society. Through research, teaching and outreach, faculty, staff and students generate new knowledge and develop policies, techniques and skills to help practitioners manage and conserve natural and environmental resources to meet the full range of human needs on a sustainable basis. www.snre.umich.edu

HOW DO AGENCY STRUCTURE, CULTURE AND POLITICS INFLUENCE A COLLABORATIVE PLANNING PROCESS?

State trust land agencies are unique among local, state and federal agencies because of their mandate and fiduciary responsibility. Despite the similarities in mandates and responsibilities across the seven Western states examined in this report, the institutional structure of trust land agencies in each state is different. While diversity is one commonality across agencies, the effect of institutional structure, culture and politics on collaborative processes that have occurred within the trust land agency environments share many similarities.

The institutional structure of trust land agencies can also create avenues for access by communities and other interest groups that in many cases has served to initiate a collaborative process. Similarly, institutional culture can also create an unreceptive environment to collaboration or an inviting one. While agency culture is not easy to identify nor pin down, the history, institutional structure and an identity inextricably tied to the trust mandate inform the ways in which the trust land agency interacts with and responds to communities and other agencies. The seven trust land agencies examined in this report demonstrate some level of cultural adaptation to engage in collaborative processes.

While the institutional structure and agency culture can be accounted for and the process can be molded to work within agency constraints, the effects of politics is difficult to quantify and account for. According to Souder and Fairfax, “we have been unable to demonstrate – or even to suggest enticingly – that whether the land commissioner is elected or appointed is tied to a discernable pattern of policy outcomes or priorities.”¹ Through their research, Souder and Fairfax found that the political context of trust land management suggests that the political structure and setting of state decisions does not significantly influence the outcomes.² Meaning, whether or not the commissioner is elected or appointed or the composition of the Land Board does not affect policy or management outcomes. This conclusion can also be applied to collaborative planning, because in its essence collaborative planning still comes down to an agency decision, albeit one with a more stakeholder input. In addition to the examples from the cases and Souder and Fairfax’s findings it is apparent that state trust land agency structure and culture can easily be adapted to participate in collaborative planning.

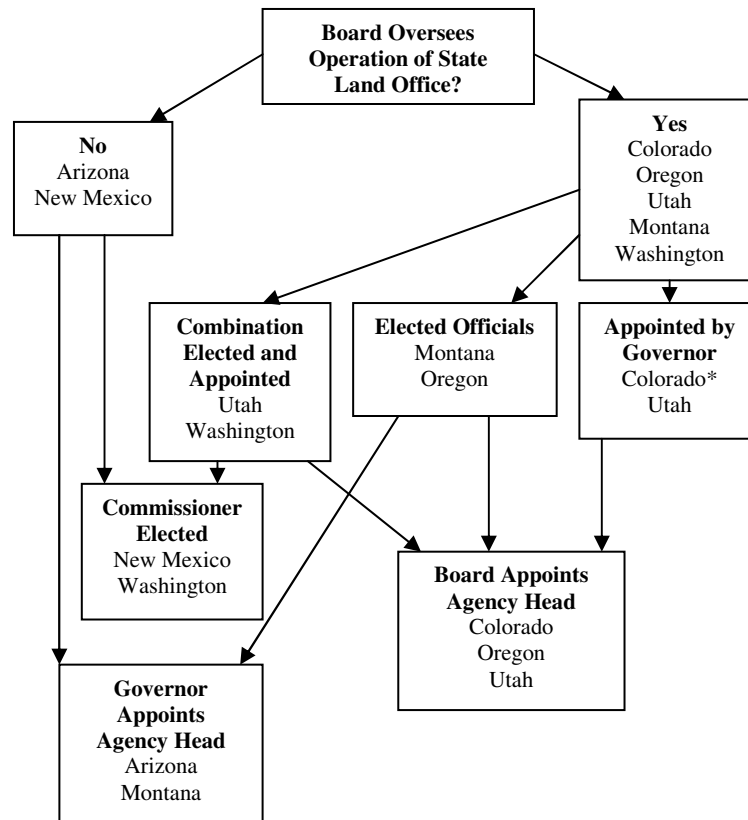
The eight cases of collaborative planning on state trust land analyzed in this report demonstrate how state trust land institutional structure, culture, and political factors can affect collaborative planning processes. This chapter will elucidate the following themes that emerge from an analysis of the eight cases:

- The effect of institutional structure on a collaborative process
- The effect of state trust land agency culture on the process and outcome
- The effect of politics on process and outcomes

EFFECTS OF INSTITUTIONAL STRUCTURE ON COLLABORATIVE PROCESS

There is wide variation in how state trust land agencies are organized. Souder and Fairfax described three administrative patterns into which all western trust land agencies fall: (1) the state land office is totally independent of other agencies; (2) the state land office is independent but is administratively overseen by a larger agency; or (3) the state land office is functionally integrated into another agency, sharing facilities and staff.³ New Mexico, Utah and Arizona are examples of the first category, with their highly autonomous land agencies. The Washington Department of Natural Resources (DNR), who manages state trust land at the behest of the State Land Board, falls into the third category. The models developed by Souder and Fairfax are a useful framework for understanding the basic differences in institutional structures found within the seven states examined in this report (Figure 16-1).

Figure 16-1: Institutional Relationships in State Land Office Organization



Note: The organization of Colorado's state land office changed per Amendment 16 in 1995.
 Source: Adapted from Jon A. Souder and Sally K. Fairfax, *State Trust Lands: History, Management, & Sustainable Use* (Lawrence, KS: University Press of Kansas, 1996), 41.

Though Souder and Fairfax have not been able to conclusively relate patterns of management decisions to particular institutional arrangements on a broad scale, the institutional make-up of the seven trust land agencies examined in this report suggest that collaborative planning processes are affected by the individual agency structure.⁴ The primary ways in which

institutional structure affected the collaborative processes examined herein were access to the State Land Board, changes in agency structure, and term limits for elected officials.

ACCESS TO THE STATE LAND BOARD

Montana's bi-level agency structure directly influenced the Whitefish Neighborhood Planning Process because it afforded community members access to the Montana State Board of Land Commissioners (State Land Board), thereby initiating the collaborative process. In Montana, the State Land Board is made up of the state's five top elected officials: Governor (chair), Superintendent of Public Instruction, State Auditor, Secretary of State, and Attorney General. While the State Land Board provides oversight and has ultimate authority on trust land management, the Department of Natural Resources and Conservation (DNRC) is responsible for day-to-day management.⁵ In the Whitefish Neighborhood Planning Process, a group of Whitefish community members formed an "Ad Hoc Committee" during the beginning months of the DNRC's planning process to petition the State Land Board and express their concerns about the process. Participants have attributed the State Land Board's support for the community to a number of reasons, including personal ties to the Whitefish area, similar liberal political leanings and the political inevitability of having to cater towards their constituents' interests. Because the State Land Board fulfilled the community's request and chartered an Advisory Committee, the DNRC was forced to adopt a process outside the realm of what they initially had envisioned. The DNRC also lost some of its decision-making power, because the agency was forced to give up exclusive control of the process and become an Advisory Committee member.⁶ Not surprisingly, this change caused tension between agency staff and the community.⁷

The trust land agency institutional structure in Washington is unique from other states examined in this research project because the agency is integrated into another agency – the Department of Natural Resources (DNR). The superstructure is such that the State Legislature acts as trustee by enacting laws that protect trust assets while the DNR serves as trust manager. The DNR management activities are controlled by the Board of Natural Resources, which sets overall policy objectives. The 6-member board consists of: Commissioner of Public Lands, Governor or governor's designee, Superintendent of Public Instruction, Dean of University of Washington College of Forest Resources, Dean of Washington State University College of Agriculture and Home Economics, a County Commissioner from a county that contains Forest Board trust land. The Commissioner appoints the Supervisor and both run day-to-day management of the trust. The Board's involvement is confined mainly to approval of land transactions.⁸ Despite the fact that the DNR acts as trust manager for the Board, it has less autonomy within the Washington institutional structure.

With the State Legislature acting as trustee, the Washington trust land institutional structure is accessible to constituents and interest groups. Prior to the establishment of the formal Lake Whatcom Landscape Planning Process Bellingham-area residents Linda Marrom and Jamie Berg, concerned about logging above their homes, contacted their local state legislators. Senator Harriet Spanel was responsive to the issues raised by Berg and Marrom and eventually sponsored the State Senate bill that mandated the Lake Whatcom Landscape Planning Process. The legislative mandate created an underlying tension within the collaborative process between the DNR and community representatives that was highlighted when Doug Sutherland was elected

Commissioner, replacing Jennifer Belcher, the previous Commissioner who was more supportive of the process. Richard Rodriguez, the Department of Health representative on the Lake Whatcom DNR Landscape Planning Committee, noted that “it would not have happened in my mind if there was not a legislative mandate to do it.”⁹ Bill McCourt, the city of Bellingham’s representative, put it more frankly, “It wasn’t a group getting together because they all had a common interest. DNR had a gun to their head.”¹⁰ The DNR viewed membership in the Committee as ceding some of its decision making authority, something it wished to avoid, and felt relinquishing decision-making authority was inconsistent with the language in the bill passed in 2000. While not stated explicitly, it appeared there were negative feelings created by the legislative mandate that affected the collaborative process by creating an atmosphere of mistrust between the Committee and DNR. This in turn led could have contributed to the dispute over decision making authority of the Committee. However, despite these challenges, the process did have several benefits including shared expertise, more informed decisions, local support for the Landscape Plan, more protective resource management strategies and greater local acceptance of DNR activities.

Oregon’s Department of State Lands (DSL) operates under a similar management structure as Washington, albeit with a simpler hierarchical superstructure. The State Land Board (SLB) oversees and sets the direction of policy and management for Oregon trust lands. It is comprised of the three highest executive elected officials in the state, the Governor, Secretary of State and State Treasurer. The DSL is responsible for day-to-day management of trust lands; however the department contracts with the Oregon Department of Forestry (ODF) to manage forest lands. The DSL agency head, the Director, is appointed by the SLB. Because of the bi-level structure of the DSL and Land Board, both the Elliott Forest Management Plan (FMP) and Habitat Conservation Plan (HCP) must go through two levels of approval once it is completed by the staff at the ODF – one for DSL approval and the second for Land Board approval. With the Land Board composed of elected officials with a bevy of other responsibilities, the members have a limited amount of time they can spend on trust land issues. Steve Thomas, Assistant State Forester and member of the Steering Committee, sums up his feelings:

The Land Board is made of people you just don’t get at meetings to talk about things. When at official board meetings you get an hour, it’s like manna from heaven, and it’s like nirvana. Usually you get 10 minutes. Typically you end up talking to them through their assistants.¹¹

While the final decision-makers are less accessible because of their other duties, in the past they have been supportive of DSL management style. Despite the assurance of past support, the Steering Committee has decided to be conservative in increasing the timber harvest on the forest to ensure that the HCP will be approved by the federal government and at the same time leaving room for the Land Board to make policy decisions. Since this process is still unfolding it is difficult to ascertain how the bi-level structure will affect the process until it is complete, or rather until the final versions of both the FMP and HCP go before the SLB.

CHANGE IN INSTITUTIONAL STRUCTURE

The institutional structure of Colorado's trust land agency was altered during the Emerald Mountain Planning Process, ushering in a new agency that was designed to be more receptive to community input. At the outset of the collaborative process the State Land Board (SLB) was comprised of three full-time salaried commissioners appointed by the governor. This SLB was characterized as being reactionary and planned for short term. It operated under the Department of Natural Resources (DNR) with six district offices throughout the state. Post Amendment 16, the structure of the SLB was transformed, replacing the traditional structure with a five-member volunteer board that had broader geographical representation, expertise, and constituencies. The SLB maintains some restrictions on collaboration in that it cannot legally provide an indirect benefit to parties who are not formal beneficiaries.¹² However, according to Beverly Rave, the northwest representative for the SLB, once this constraint is factored into the process the agency has "plenty of flexibility within that."¹³ The hierarchical structure of the Colorado SLB proved to be a frustration for members of the Emerald Mountain Partnership Advisory Council. Beverly Rave, a representative of the SLB, had to frequently consult the Denver office on issues that came up during the process, such as extending the Memorandum of Agreement.¹⁴ Despite these frustrations, having Rave as a regional representative for the SLB made it more possible to have a viable local solution. Furthermore it enabled and empowered the process because, as a local representative Rave served as an important liaison to improve communication between the Emerald Mountain Partnership and the SLB.

TERM LIMITATIONS

Similar to Arizona and Utah, the New Mexico State Land Office (SLO) enjoys a fair amount of self-determination. The elected Commissioner of Public Lands has final "unchecked" decision-making authority - unchecked meaning no board oversight and an independent agency.¹⁵ The Commissioner is advised by the Office of the General Council and the State Land Trusts. According to the Enabling Act, the Commissioner can only serve a maximum of two consecutive four year terms. This has been a limiting factor in the Mesa del Sol collaborative process because Commissioners Baca and Powell were not able to see this process through during their tenures in office, thus Powell had to hand over Mesa to the current Commissioner, Patrick Lyons. Changes in administration caused the process to be delayed on numerous occasions. In additions to delays the uncertainty of the interests and political agendas of the incoming Commissioners in the future were also apparent in the Mesa del Sol Planning Process. Bill Elliott Communications Director for the Albuquerque National Dragway located on Mesa del Sol was worried about the Dragway's long-term future: "It's a little touchy subject and ... who knows what's going to happen. I know we don't have problems with Patrick Lyons but the election is next year and he's only got four more years beyond that and then who knows who were dealing with."¹⁶

HOW AGENCY CULTURE AFFECTS COLLABORATION

State trust land agency culture is informed by the interpretation of the constitutional mandate, fiduciary responsibility, agency history, state history and politics, and types of land managed. This amalgam of historical, political and economic responsibilities creates the context in which

trust land agencies operate on a day-to-day basis. The context often determines how the trust land agency interacts with other agencies and the public. These interactions have changed remarkably since the 1960s and early 1970s when pivotal legislation on state and federal levels refocused managers' attention on their trust obligations to the beneficiary. Prior to this point, trust land programs, as described by Souder and Fairfax, were, "rather cozy undertakings directed primarily at meeting the needs of the lessees."¹⁷ Other trends and strategies have also emerged to affect the general culture of trust land agencies; these include but are not limited to attention from the environmental community advocating resource protection and recreational access; urban expansion; and perhaps most importantly the economic growth and social climate of the western United States.

In addition to affecting the relationships an agencies has with those outside of it, institutional culture is also the lens through which trust land agencies see the world. Therefore, it can have a significant impact on a collaborative planning process. Institutional culture can be an impediment or a facilitating factor to engaging in a collaborative process. According to Culp et al, on a broader level, state trust land managers share many of the same barriers to collaboration as public agencies including resource constraints and institutional norms that prevent or discourage them from engaging in collaborative processes.¹⁸ Some observers have noted that agencies have a significant amount of bureaucratic inertia and resist change, making it difficult to engage in nontraditional types of processes.¹⁹ According to Wondolleck and Yaffee, working within a pre-existing institutional framework can affect organizational structure and norms in the sense that participation in collaborative processes often requires organizations and institutions to reexamine and revise their traditional management styles.²⁰

The amorphous nature of culture does not lend itself to be easily defined nor its affects easily observed. That being said, the influence of agency culture on collaborative efforts observed in the eight cases ran the gamut from direct to indirect affects. The cases where culture influenced the process drew on themes including: (1) concern about abdicating all or part of decision-making power as a result of being part of a collaborative process; (2) uncertainty about accepting help from outside sources; (3) trust land agency interaction with communities and other agencies; (4) perception of trust land agencies; and (5) integration of collaboration within trust land agency operating procedures

Dealing with institutional challenges and culture can pose one of the more significant barriers for trust land agencies to engage in collaborative processes. Wondolleck and Yaffee state that, rather than abandoning traditional styles altogether, groups can work to find balance between collaboration and traditional management style.²¹ For instance, agencies can take advantage of their expertise to retain ultimate decision-making authority, but do so in a way that is conducive to collaboration. Because participants typically face limited resources, agency expertise is often welcomed by the process group.²² The perceived inability for state trust land management agencies to make concessions – bound by mandate – not necessarily a limiting factor but a challenge nonetheless. For example the Colorado State Land Board (SLB) cannot legally provide indirect benefits to parties who are not formal beneficiaries. What ever solution reached has to be in the best interest of the trust. While this was frustrating for some participants once this limitation was acknowledged it ceased to become a limiting factor to the forward movement of the process. Additionally, the change in the SLB structure as a result of Amendment 16 required

the new SLB to comply with local land use regulations and plans. This further opened the door for collaborative work with the local communities and the new regional representation also facilitates collaboration as well.

AUTONOMY TO COLLABORATE

While bureaucratic barriers to collaboration do exist, all of the trust land agencies featured in this research project have demonstrated an ability to adapt their agency's mandate to engage in collaborative planning. The most challenging aspect of the adaptations has been working within the confines of their constitutional mandate and allowing outside parties to contribute to a planning process that normally would occur solely inside the agency. Utah's School and Institutional Trust Lands Administration (SITLA) is a notable example of this adaptation. By all accounts SITLA is more flexible and able to collaborate with communities, more so than federal government agencies, for example. SITLA is afforded this level of flexibility because the Utah State Legislature set up the rules governing it to allow the agency a significant amount of autonomy. Because of its freedom and clarity of mandate, SITLA is often described by Assistant Director of Planning and Development, Ric McBrier, as a "quasi-private" agency.²³ The agency is self-funded and experiences the full support of the Utah State Legislature. In many respects SITLA has the most freedom, compared to the other trust land agencies discussed, to engage in a collaborative effort, albeit contingent on the support of the State Land Board. McBrier stated that SITLA is "absolutely" more flexible and able to collaborate with local communities than federal agencies.²⁴ McBrier went on to state that, "If a professional manager [at SITLA] can see that [a collaborative approach] is in the beneficiaries' best interest, and how do you figure that out without probing into it, then theoretically we should be free to do it."²⁵ However, that being said, SITLA and McBrier also have the freedom to walk away from the process if they feel that the process is no longer in the best interest of the trust. SITLA Director Kevin Carter described the unilateral power held by SITLA: "If it's too much hassle to deal with the local community, I'll just sell the land and walk away from it. It's always a valid question, 'Is what I could potentially get out of a collaborative process worth the effort?'"²⁶ SITLA's culture, in many ways grounded in their autonomy as an agency, was a key ingredient to the agency's participation in the Castle Valley Planning Process.

STRATEGIC COLLABORATION

The Arizona State Land Department (ASLD) has a somewhat similar structure to SITLA, in that the ASLD can act autonomously or they can work with outside interests in a collaborative process. However the culture of the agency has been informed by a different context, history and leadership. The ASLD had historically focused on natural resource management, however as a result of The Urban Lands Act, Growing Smarter and Growing Smarter Plus Legislation, The Arizona Preservation Initiative, and the location of trust land in developing urban areas has made the agency more focused on urban growth issues, real estate sales, and land use planning. Despite the shift in focus, the ASLD had frequently worked with local communities and agencies on management issues, often serving in a resource role. According to Commissioner Mark Winkleman, he was:

Personally always a proponent of trying to work with people and accomplish something. While we can sit back and say, “Well, we’re the state and we’re not going to listen to your plan and if you don’t like our plan we’re going to take our ball and go home,” that really doesn’t further our mission of generating revenue.²⁷

The culture of the agency enabled the Land Commissioner to make that decision on the level of agency participation and the capacity of the interaction with local communities. The Houghton Area Master Plan (HAMP) Process differed slightly from other cases examined in this report because the Process was convened by the City of Tucson and as the major landowner in the area, the ASLD was invited to participate on the Citizens Review Committee (CRC). The HAMP Process was perceived as the City’s project rather than ASLD’s project. Additionally, the ASLD believed that in order to engage in collaborative planning it must also make sure it was protecting its interests and potential benefits for the trust, requiring it to find a balance between participating and maintaining its authority. As stated by the ASLD’s Gordon Taylor:

We’ve found that if we get put on a committee, like a general planning committee ... and then they craft their document and we’re listed as one of the people that supported it – even though we may object to certain elements of it – by virtue of our association ... there’s tacitly the buy in ... and that could be conceivably used by the community to leverage the Department on various land issues.²⁸

Adds Commissioner Winkleman, “The challenge for us is accepting help and accomplishing something, but not having somebody undermine our goals and satisfy their own to the detriment of the beneficiaries and us ... that is the tension that always goes with these processes.”²⁹ The desire to be cautious and strategic about who they partnered with was evident in the fact that the ASLD chose to participate advisory role throughout the HAMP process. This decision was also derived from the agency’s efforts to balance maintaining authority and asking for help. Commissioner Winkleman further elaborated on the ASLD’s efforts to strategically balance these elements when engaging in a collaborative planning process:

We don’t have enough people and we don’t have the money to do an adequate job. One of the things I’ve stressed since I’ve been here is we’re going to accept the help and embrace the help as much as we can ... but if someone can truly help us, let them help us because we can’t adequately help ourselves ... so the challenge for us is accepting help and accomplishing something, but not having somebody undermine our goals and satisfy their own to the detriment of the beneficiaries and us.³⁰

Having the ASLD participating in an advisory role was also a source of frustration for the CRC members because it created uncertainty whether or not the ASLD would use the HAMP as a guide since they were under no legal obligation to follow it. The strategy employed by the ASLD about receiving help in development and land use planning in addition not maintaining the role as the absolute decision-maker has colored the way the agency had participated in the HAMP Process.

The culture of the City of Tucson also played a role in the formation and CRC representation in the HAMP Process. The City of Tucson decided to employ a collaborative process largely because the existing culture of the city is such that residents expect to be engaged. The City has maintained a long tradition of involving broad segments of representation from the community in land use and urban planning processes. Albert Elias, Director of Tucson's Department of Urban Planning and Design stated that public involvement and collaboration is "the expectation of the community and the expectation of our elected officials."³¹

PERCEPTION OF AGENCY

For an agency with a clear mandate and strong sense of identity participating in a collaborative process can sometimes create a feeling that the trust land agency is losing a degree control in how they are perceived by the public at-large. While participating in the Southeast New Mexico Working Group, New Mexico's State Land Office (SLO) considered the risks associated with participating as related to public perception of the organization and its mission. David Coss, Director of Field Operations at the SLO, voiced a concern that the SLO would be misconstrued as a "mini BLM." He continued:

We don't want to be confused with the Bureau of Land Management. I think that was one of our biggest issues of keeping our separateness of a state trust with trust responsibilities that is not a federal land management agency. We're in a different category. And we didn't want that to get blurred. The oil people and the ranchers know that. But the general public doesn't know that.³²

The concerns expressed by Coss were largely alleviated by the end of the process. However, clearly the culture of the agency is deeply rooted in desire to be seen as a distinct entity and not as a smaller part of a larger land management agency. Though this concern could exist when a trust land agency or other city, county, state or federal agency engages in a collaborative process, the experience of the SLO in the Southeast New Mexico Working Group indicates that this fear can be assuaged through education within the process as to the role of the agency.

PRE-EXISTING INCORPORATION OF COLLABORATION

The culture of the Oregon's Department of State Lands (DSL) has evolved in the past six years to more actively involve a wider array of stakeholders in Common School Land management. The impetus for this shift was derived from Director of State Lands Ann Hanus' desire to increase beneficiary involvement in DSL activities and to allow them to provide input on land and revenue management. For example, she organized a large group of representatives from the Oregon teacher's union, school administrators and Parent Teacher Associations and other education interest groups to become involved in Children's Land Alliance Supporting Schools (CLASS), a west wide beneficiary organization. The wider array of stakeholders invited to participate in the Elliott State Forest Planning Process, outside of traditional agency personnel, also demonstrate the agencies shift to a more inclusive management style. The nontraditional stakeholders that participated in the Planning Process Steering Committee included Coos County Commissioner John Griffith and the Superintendent of the South Coast Educational Service

District, Rick Howell. Griffith served as a representative of local area County Commissioners while Howell represented the beneficiaries.

In addition to the Elliott Planning Process, in the last six years the DSL has used collaboration more widely to manage other types of land. For example, the Rangeland Advisory Committees invite beneficiary representatives, environmentalists, ranchers and scientists in determining the best long term management plans for rangeland leasing. This decision also highlights the increasing inclusion of outside interest groups in state-wide Common School Land management.

HOW CHANGING CULTURE DURING COLLABORATION AFFECTS THE PROCESS

Once a trust land agency becomes involved in a collaborative planning process, its culture often adapts to allow it to further engage in the process and to facilitate a better outcome. Change can result from dealing with process challenges, that once overcome shape the manner in which the agency interacts with the public and other agencies in the future.

The overhaul of the Colorado State Land Board (SLB) as a result of Amendment 16 also fostered the development of an institutional culture that better able to interact with regional communities. The amendment required the SLB to comply with local land use regulations and created a Board with a broader geographical representation.³³ The new culture of the SLB was one of many factors that allowed it to issue the five-year planning lease and the Memorandum of Agreement (MOA) to the Emerald Mountain Partnership. The MOA and the lease gave the group legitimacy and an incentive to see the process through. The MOA specified that the Partnership would purchase the Emerald Mountain parcel at market value within five years, based on a current appraisal. With the MOA in place, the SLB could not consider any other offers for the parcel for the term of the agreement. While this empowered the Partnership and bound the SLB for a period of time, there was also a balancing act at play. Charles Bedford, former Land Commissioner, stated that:

The risk was creating expectations that the plan – whatever plan they came up with – was going to be accepted ... You have to balance it because they have to believe that something that they are doing is going to be meaningful, and it's going to impact the decision-making process.³⁴

Bedford also acknowledged that giving the community an opportunity to develop a plan for trust land management also requires a certain amount of faith from the SLB. He added, “You have to in your heart believe that what they’re going to come up with is going to be something you can work with.”³⁵

The mindset shift within the Department of Natural Resources and Conservation (DNRC), as non-traditional uses of land were becoming more common in Montana, resulted in mixed messages from the DNRC during the Whitefish Neighborhood Planning Process. The disconnect between the local DNRC and the Helena DNRC staff created multiple sources of agency inconsistency that contributed to confusion among the Advisory Committee regarding the agency’s intentions and effectiveness. As a result, the Committee members felt that the DNRC was not engaging in an honest process.³⁶ In an effort to remedy the situation, the DNRC made

some personnel adjustments to ensure that the staff involved in the process was of a similar mindset and could convey a more consistent message. The change improved DNRC involvement in the Planning Process and resulted in greater access to information for the Advisory Committee. According to Alan Elm, Chairman of the Advisory Committee, meetings with DNRC Trust Lands Management Division Administrator, Tom Schultz, enabled him to dispel his concerns that DNRC staff in Helena was manipulating the process.³⁷ The personnel changes within the DNRC went a long way in dispelling the mistrust that had built up between the agency and the Advisory Committee.

HOW POLITICS AFFECT COLLABORATIVE PROCESSES

Political factors can be brought into a collaborative process when participants are elected officials. For example, politics can affect collaborative processes in any number of ways. Politics can be the initiator of a collaborative process, as in the case of the Lake Whatcom Landscape Planning Process, or politics can pose significant barriers to the process as seen in the Mesa del Sol Planning Process. Politics are related to agency structure in that the institutional structure can allow for either increased or fewer avenues for collaboration or dissent. The involvement of elected officials can also lend a sense of legitimacy and accountability to the process and they can levy resources. The affect of politics varies from case to case. It is not something that can be accounted for or planned for in future collaborations. Those looking at engaging in collaborative processes should be aware that politics can serve as both a facilitating factor and an impediment to the process.

The way in which state trust land agencies fit into the broader framework of state politics can influence the collaborative planning process, both directly and indirectly. Souder and Fairfax state that, “the relative power of the land office in state policy decisions compared to other state agencies is important. Total independence, while it allows focus on trust goals, may weaken the trustee politically.”³⁸ Though it is arguable whether or not the near 20-year delay of the Mesa del Sol Planning Process was the result of State Land Office (SLO) being unable to influence policy decisions outside its traditional realm of land management, the series of Commissioners that attempted to get the development through Albuquerque city government were limited by the city’s approval of the plan. The SLO also had to deal with obstructions put in place by the University of New Mexico (UNM) Board of Regents, who was seeking greater profits from the development plan. The Mesa del Sol parcel is located on the Southeast side of Albuquerque, the opposite side of the city where many political leaders in the city and the State Legislature have development interests.

USING POLITICS TO GAIN INFLUENCE OVER DECISION-MAKING

Agency structure and politics can allow avenues for constituents to gain influence over decision making. This influence can serve as the impetus for the creation of the collaborative process or it can broaden the scope of the process to include a wider array of stakeholder representation.

Trust land agencies with elected Land Commissioners and Land Boards can make a collaborative process more subject to local, regional and state-wide politics than agencies in which the

Commissioner is appointed, for example. Elected Commissioners and Land Boards have a dual obligation to best serve the interests of the trust and constituents. Collaborative processes can be managed with those obligations in mind, with the added benefit of likely producing good public relations between the trust land agency and the public. However, the Commissioner's responsibility to his or her constituency can make collaborative processes more political, as the Commissioner attempts to balance public interests than can impede a collaborative process. Conversely, the State Land Boards often have less direct political accountability with respect to the management of the trust. In the case of the Whitefish Neighborhood Planning Process, the fact that most of the elected members of the Montana State Land Board shared the same political affiliation as many local residents created the perception that the Whitefish community consequently was able to garner significant support for their interests. Because the structure of the State Land Board is inextricably tied politics, it compromised the effectiveness of the DNRC, which struggled to maintain its authority while serving on the Advisory Committee. Other committee members were able to use the schism between the two entities to get more of their interests heard during the process.³⁹ The State Land Board and DNRC eventually recognized that this disconnect hindered the effectiveness of the planning process. They were able to overcome the challenges inherent in this bi-level management structure by committing to work as a united front to ensure that the State Land Board did not put the agency in a compromising position.

Though New Mexico Land Commissioner Lyons enjoys nearly complete autonomy within the State Land Office (SLO), as an elected Commissioner he also has a responsibility to his constituents. For example, after narrowly winning his election in 2002, Bill Elliott, Communications Director from the Dragway that leases a section of the Mesa del Sol parcel, made a call to Lyons the day after his victory. Lyons had been declared victorious by a margin of 8,000 votes and the Dragway had strongly supported his campaign. Elliott remembers what he said during the conversation, "Patrick, congratulations and I want you to know that there's exactly 8,000 drag racers in the state of New Mexico."⁴⁰ Soon after taking office, Lyons, re-issued the Dragway's five-year lease.⁴¹ While the managers of the Dragway still harbor fears that it will not be included in the development of Mesa del Sol, it and other drag racing interests have vowed to campaign heavily for the re-election of Commissioner Lyons in 2006.⁴² Therefore, in many cases constituent interests and access to politicians can put issues on the table that might have otherwise been discarded. For example, having a dragway on the same block of land as a multiple-use planned community is not something one would typically see in other urban development projects.

One of the prime motivations for Commissioner Lyons to become engaged in the Southeast New Mexico Working Group was to look out for his constituents' interests in addition to the interests of the trust. Arguably chief among these interests was preventing economic fallout for oil and gas leasing were the lesser prairie chicken listed as a federally threatened species. States Commissioner Lyons:

If the prairie chicken was listed as endangered, there would be an economic fallout in NM, a tremendous economic fallout. If you couldn't produce oil and gas down there, then you could lose millions and millions of dollars. Probably a couple hundred million dollars.⁴³

It is likely that the protection of habitat for the lesser prairie chicken would not have an important priority for Lyons and the SLO had it not had such large potential impact on oil and gas leasing. Lyons also recognized that it was in the interest of the trust to have consistent land management across different agencies' land to make future management easier. He also had to recognize and be responsive to the needs of rural communities in New Mexico and how they would be affected if the prairie chicken was listed as a federally threatened species.⁴⁴ The issues at play within the Working Group were highly political thus allowing unlikely outcomes such as the conservation of potentially threatened species to occur along with those serving more traditional oil and gas industry interests.

USING POLITICS TO IMPEDE THE COLLABORATIVE PROCESS

Politics and by extent, politicians, can use their influence, access to resources and legitimacy to hinder a collaborative process. Impediments can occur for a number of reasons, primarily when the process represents interests that are diametrically opposed to politician's interests, or because the politician perceives the process as a threat to his or her power.

The succession of Commissioners that pushed the Mesa del Sol Planning Process along were continually subject to the need to balance constituency interests and play politics. While the New Mexico Commissioner is sometimes considered as powerful as the Governor for example, his or her power only resides within the confines of trust land management. Additionally, the Commissioner is also susceptible, as any elected official is, to the approval of his or her constituents and the ability to garner public support for State Land Office (SLO) projects. The SLO was also vulnerable to the political pressures exerted by the University of New Mexico (UNM) despite the fact that they were technically outside of the process. The UNM had little authority to design the details of the Mesa del Sol development. However, they were successful in putting up roadblocks to stall or maneuver the process to further their beneficiary interests of gaining a higher percentage of the profits from the development. The UNM used political power to influence the city of Albuquerque to stall development on the Mesa del Sol parcel when they were not fully satisfied with the plan. These tactics served to both stall and prolong the process outside of the collaborative relationship and sometimes created a significant amount of mistrust between the UNM Board of Regents and the SLO. The SLO was forced to wait for times in which relationships with the UNM Board of Regents was more productive to continue the Mesa del Sol Planning Process.⁴⁵

The Mesa del Sol Planning Process was also susceptible to local government political interests. When the land was annexed to the city of Albuquerque, the forward momentum of the collaborative process depended in part on the support of local area politicians. This highly political environment forced the SLO and a series of Land Commissioners to rely on "political windows of opportunity."⁴⁶ However there were many "closed windows" and barriers along the way. One such barrier was Albuquerque Mayor Martin Chavez who stalled the annexation of Mesa del Sol because he saw it as competition for west-side development interests. Chavez had also just come off a term serving as State Senator for Albuquerque's west side and their development interests and was suspected to have personal investments in west side development.⁴⁷

Elections can affect the way a trust land agency is managed, and as a result affect a collaborative planning process. The November 2000 election of Doug Sutherland as Commissioner of Public Lands had a deleterious effect on the Lake Whatcom Landscape Planning Process. Many committee participants acknowledged that that with Commissioner Sutherland's arrival, the DNR returned to its more traditional, timber production and focused policies.⁴⁸ It was also noted that there was a philosophical difference between the management styles and priorities of the two commissioners. The previous Commissioner, Jennifer Belcher was remembered as a strong environmentalist. Commissioner Sutherland, on the other hand, was noted for his strong record of fiscal management.⁴⁹ This change in philosophies resulted greater participation from DNR employees from the Olympia office, who by some accounts were predisposed to the new Commissioner's mindset.⁵⁰ Ultimately, outside facilitation team was called in to regain balance in meetings. Later on many thought that the Commissioner stalled the approval of the FEIS because he did not want to approve the plan.

Local politics can impact a collaborative process because they can exacerbate problems between people and interests that exist already. The Castle Valley Planning Process is a case in point. The local politics in the small town of Castle Valley were highly contentious before the planning process; however, the uncertainties surrounding the role and responsibilities of the town government and the Planning and Zoning Commission created a schism that ultimately broke down the process. The town's role as a government entity was not well established, creating obstacles to the process as well as confusion. For example, Mayor Bruce Keeler was involved with the Castle Rock Collaboration (CRC) at the beginning of the process, but was eventually advised to separate himself from the organization and planning process less he compromise his role as an elected official of the town. Additionally, the members of the Planning and Zoning Commission felt that they could not incorporate the work that had been done during the planning process into the new town ordinances. This feeling was derived from at least one individual who felt that the CRC did not represent the entire town and that SITLA was acting disingenuously within the scope of the process. In this case, local politics were one of the elements that caused the collaborative process to derail.

POLITICS AS A FACILITATING FACTOR TO COLLABORATION

Politics also can help move along a collaborative process. This facilitation can come in the form of a committed political leader or one who can use his or her party affiliation to garner support from interests that would not normally participate. Political support for a collaborative process can move the process forward in a more expedient manner. It also draws attention to the process, create legitimacy and accountability and allow for things to occur that might not have otherwise.

Politicians can lend legitimacy to a collaborative process simply by participating and being able to bridge a divide between diametrically opposed stakeholder groups. They can also provide resources and a greater sense of accountability to a process. Routt County Commissioner, Ben Beall, was able to lend his legitimacy as a political and well-respected figure to the Emerald Mountain Planning Process. Beall had spearheaded the local Emerald Mountain planning effort from its inception and immediately following the formalization of the process, he was elected chairman of the Emerald Mountain Partnership. The Steamboat Springs City Council also lent legitimacy to the process by participating in the Partnership. In addition to creating legitimacy

within the process, the Partnership was able to leverage a greater sense of accountability and high level political support in the proposed land exchange with the Bureau of Land Management (BLM). A local BLM staffer had broached the idea with the Partnership that they explore a land exchange with the agency. This was a turning point in the process because the exchange would meet the interests of both the local community and the Colorado State Land Board. When the land exchange was being considered by the legislature, the members of the Partnership met with Governor Owens and state senators to get letters of support and ultimately garnered extensive political support for the land exchange.

The Lake Whatcom Landscape Planning Process, while it had its share of political roadblocks, duly benefited from committed political leader State Senator Harriet Spanel. Senator Spanel spearheaded the passage of the legislation that mandated the process after being approached by the Bellingham community members. Her motivation in playing such an active role was to be responsive to her constituents and a broader concern for environmental issues. Senator Spanel's district includes Lake Whatcom and she has long been involved in issues pertaining to natural resources, and had served as a member of several natural resource and environment-related committees. She was interested in these issues before she was approached by Linda Marrom and Jamie Berg to support the legislation that eventually mandated the collaborative process. Senator Spanel sponsored Bill 5536 and was able to pass its scaled back version (including only the Lake Whatcom area) with unanimous support on July 25, 1999.⁵¹

The Mesa del Sol process also benefited from a committed politician. Former Commissioner Ray Powell worked diligently to get the lease for the Mesa del Sol development in place as a legacy to his tenure as Commissioner. The lease for Mesa del Sol was signed on the last day of his term in office. This was a critical moment in the process because the incoming Commissioner, Patrick Lyons, said he would not have used a single private sector partner - Forest City Covington (FCC) LLP - or as much state-organized collaboration with other stakeholders. Because the FCC had already signed the lease contract, it was more attractive for Commissioner Lyons to continue the Mesa del Sol project.⁵²

Commissioners in New Mexico serve a maximum of two consecutive four-year terms, thus each new commissioner can enter office with an entirely new set of beliefs and policies.⁵³ This lack of continuity can disable a collaborative process. It was fortunate that Commissioner Lyons was willing to continue with the process. Powell was successfully able to set the stage such that the Mesa del Sol development was able to continue. The Mesa del Sol Planning Process was defined by the both Commissioners' ability to persevere and utilize key political windows of opportunity.

HOW DID INSTITUTIONAL STRUCTURE AND POLITICS AFFECT PROCESS OUTCOMES?

Clearly, the institutional structure of the state trust land agencies and politics affected the collaborative planning processes. Souder and Fairfax also note that the trust mandate is not an "antidote to political reality: the trust mandate does not insulate trust managers from political pressure or prevent them from making politically expedient responses to such pressure."⁵⁴ The affect of the combination of both structure and politics can be seen in the outcomes of these processes. In general, the outcomes ended up being more "creative" than typical agency land management decisions. For example, perceived political support from the State Land Board

empowered the Whitefish Advisory Committee to push for only four percent development in the final Neighborhood Plan. Had the Department of Natural Resources and Conservation completed the Plan alone or had more control over its substance, it is likely that they would have included more development than is currently proposed in the Plan. Similarly, the Southeast New Mexico Working Group was able to remove some state trust lands from oil and gas leasing as a result of Commissioner Lyon's ability to catalyze support from the oil and gas industries, which normally would not have supported such an endeavor.

Conversely, politics and institutional structure served to delay other collaborative processes. The Mesa del Sol Planning Process has already taken more than 20 years to complete. This can also be attributed to the fact that the process was largely informal; however much of the delays were the result of political moves to stall the plan. The Lake Whatcom Planning Process also experience delays. These occurred when the DNR decided to conduct an Environmental Impact Statement that the Committee members felt was unnecessary. The process was also dependant on state legislation to implement the process.

Endnotes

¹ Jon A. Souder and Sally K. Fairfax, *State Trust Lands: History, Management, & Sustainable Use* (Lawrence, KS: University Press of Kansas, 1996).

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ The DNRC is to act “under the direction of the [State Land] Board.” Mont. Code Ann. § 77-1-301 (2005).

⁶ Paul McKenzie (Stoltze Lumber), interview by Jessica Mitchell and Lisa Spalding, August 18, 2005, Stoltze Lumber, Columbia Falls, MT; Janet Cornish (Community Development Services of Montana), telephone interview by Jessica Mitchell and Lisa Spalding, August 8, 2005.

⁷ Greg Poncin (Unit Manager, Kalispell Unit Office, DNRC), telephone interview by Jessica Mitchell and Lisa Spalding, September 6, 2005; Kathy Bramer (Montana Office of Public Instruction), interview by Jessica Mitchell and Lisa Spalding, August 15, 2005, The Overland, Helena, MT.

⁸ Souder and Fairfax.

⁹ Richard Rodriguez (Regional Planner, Washington State Department of Health), interview by Alden Boetsch and Matt Stout, August 11, 2005, DOH, Kent, WA.

¹⁰ Bill McCourt (General Manager, Lummi Tribal Water and Sewer District), interview by Alden Boetsch and Matt Stout, August 8, 2005, Lummi Tribal Water and Sewer District, Lummi Nation, WA

¹¹ Steve Thomas (Assistant State Forester, Oregon Department of Forestry), interview by Eirin Krane and Drew Vankat, August 24, 2005, ODF, Roseburg, OR.

¹² Beverly Rave (Northwest District Manager, Colorado State Land Board), interview by Lisa Spalding and Matt Stout, August 5, 2005, Denver, CO.

¹³ Ibid.

¹⁴ Martha Drake (Chris) Young (Psychologist), interview by Lisa Spalding and Matt Stout, August 3, 2005, Steamboat Springs, CO.

¹⁵ Jerry King (Assistant Commissioner of Surface Resources, New Mexico State Land Office), interview by Drew Vankat and Emily Kelly, August 15, 2005, Albuquerque, NM.

¹⁶ Bill Elliott and Bob Labatte (Director of Public Relations and Owner, Albuquerque National Dragway), interview by Emily Kelly and Drew Vankat, August 18, 2005, Albuquerque, NM.

¹⁷ Souder and Fairfax.

¹⁸ Peter W. Culp, Diane B. Conradi and Cynthia C. Tuell *Trust Lands in the American West: A Legal Overview and Policy Assessment*. A Policy Assessment Report of the Lincoln Institute of Land Policy / Sonoran Institute Joint Venture on State Trust Lands, 2005.

¹⁹ Bureau of Land Management and Sonoran Institute, *Desktop Reference Guide to Collaborative, Community-Based Planning* (2000).

²⁰ Julia M. Wondolleck and Steven L. Yaffee, *Making Collaboration Work: Lessons from Innovation in Natural Resource Management* (Washington D.C.: Island Press, 2000), 61.

²¹ Ibid.

²² Ibid., 130

²³ Ric McBrier (Assistant Director of Planning and Development, SITLA), interview by Stephanie Bertaina and Eirin Krane, August 15, 2005, SITLA, Salt Lake City, UT.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Kevin Carter (Director, SITLA), interview by Stephanie Bertaina and Eirin Krane, July 26, 2005, Western States Land Commissioners Association Summer Conference, Great Divide Lodge, Breckenridge, CO.

²⁷ Mark Winkleman (Commissioner, Arizona State Trust Land Department), interview by Alden Boetsch and Jessica Mitchell, August 2, 2005, Phoenix, AZ.

²⁸ Gordon Taylor (Manager, Planning Section, Real Estate Division, Arizona State Land Department), interview by Alden Boetsch and Jessica Mitchell, August 5, 2005, Tucson, AZ.

²⁹ Mark Winkleman (Commissioner, Arizona State Trust Land Department), interview by Alden Boetsch and Jessica Mitchell, August 2, 2005, Phoenix, AZ.

³⁰ Ibid.

³¹ Albert Elias (Director, city of Tucson, Department of Urban Planning and Design), interview by Alden Boetsch and Jessica Mitchell, August 4, 2005, Tucson, AZ.

³² David Coss (Director of Field Operations, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

³³ "Analysis of 1996 Ballot Proposals: Amendment 16, State Trust Lands," Colorado General Assembly, Legislative Council, http://www.state.co.us/gov_dir/leg_dir/96bp/amd16.html.

³⁴ Charles Bedford (former Director, Colorado State Land Board), interview by Lisa Spalding and Matt Stout, July 26, 2005, Great Divide Lodge, Breckenridge, CO.

³⁵ Ibid.

³⁶ Janet Cornish (Community Development Services of Montana), telephone interview by Jessica Mitchell and Lisa Spalding, August 8, 2005; Sheila Bowen (President / CEO, Whitefish Chamber of Commerce), interview by Jessica Mitchell and Lisa Spalding, August 18, 2005, Whitefish Chamber of Commerce, Whitefish, MT.

³⁷ Alan Elm (Realtor, ReMax Whitefish), interview by Jessica Mitchell and Lisa Spalding, August 16, 2005, ReMax Whitefish, Whitefish, MT.

³⁸ Souder and Fairfax.

³⁹ Diane Conradi (Attorney, Law Offices of Diane Conradi, and formerly of the Sonoran Institute), interview by Jessica Mitchell and Lisa Spalding, August 19, 2005, Whitefish, MT.

⁴⁰ Bill Elliott and Bob Labatte (Director of Public Relations and Owner, Albuquerque National Dragway), interview by Emily Kelly and Drew Vankat, August 18, 2005, Albuquerque, NM.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Patrick H. Lyons (State Land Commissioner, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, July 26, 2005, Western States Land Commissioners Association Conference, Breckenridge, CO.

⁴⁴ Jim Bailey, (Biologist), telephone interview by Stephanie Bertaina and Emily Kelly, November 13, 2005.

⁴⁵ Tim Callahan (Planner, New Mexico State Land Office), interview by Emily Kelly and Drew Vankat, August 16, 2005, Albuquerque, NM.

⁴⁶ Kim Murphy (Director of Real Estate, University of New Mexico), interview by Emily Kelly and Drew Vankat, August 18, 2005, Albuquerque, NM.

⁴⁷ Tim Callahan (Planner, New Mexico State Land Office), interview by Emily Kelly and Drew Vankat, August 16, 2005, Albuquerque, NM.

⁴⁸ Harriet Spanel (Senator, Washington State Senate), telephone interview by Alden Boetsch and Matt Stout, August 30, 2005.

⁴⁹ "Washington State Commissioner of Public Lands, Doug Sutherland, Biography," Washington State Department of Natural Resources, <http://www.dnr.wa.gov/base/bio.html>.

⁵⁰ Richard Rodriguez (Regional Planner, Washington State Department of Health), interview by Alden Boetsch and Matt Stout, August 11, 2005, DOH, Kent, WA.

⁵¹ 2SSB. 5536, 1999 Leg., 56th Sess. (Wash. 1999).

⁵² Ray Powell (Former Commissioner of Public Lands, New Mexico State Land Office), interview by Emily Kelly and Drew Vankat, August 18, 2005, Albuquerque, NM.

⁵³ Ibid.

⁵⁴ Souder and Fairfax.