

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

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BEST PRACTICES

The eight cases demonstrate that collaborative planning on state trust land is occurring in communities across the West in response to a variety of land management issues and in the face of a range of constraints. These examples of collaboration provide valuable data about the benefits, costs and challenges of this type of land management approach. Moreover, they highlight factors that are instrumental in facilitating a collaborative process, as well as general lessons learned from practical experience.

From these rich cases emerges a set of “best management practices” for collaborative planning on state trust land. Essentially, this list serves as a comprehensive summary of ideas for state trust land managers and other stakeholders interested in creating and/or guiding a collaborative process within the unique context of state trust land management. The chapter outlines best practices with respect to:

- Deciding when to collaborate
- Setting up a successful process
- Determining who will participate
- Organizing a successful process
- Creating a decision-making structure
- Helping participants work together
- Dealing with information
- Implementing agreements

DECIDING WHEN TO COLLABORATE

- ✓ **Assess the situation and the incentives facing potential participants when deciding whether or not to invest time and resources in collaborative planning.** Key factors to consider are whether all stakeholders have a financial, personal or professional stake in the outcome; whether they are willing to devote the necessary time and energy to the process, and whether the issue can be addressed effectively through other decision-making methods.
- ✓ **Secure support and resources from trust land agency decision makers for the planning effort and work to gain support from all levels of the decision-making hierarchy.** Ensuring that those with decision-making authority will dedicate staff time and financial resources to the process can validate the process as an appropriate exercise that will guide agency decisions.
- ✓ **Determine whether other, potentially-related legal processes are ongoing and determine whether a collaborative planning process can occur concurrently.** A review of preexisting legal sideboards will provide clues as to whether another, potentially-related legal process like an Environmental Impact Statement process, zoning ordinance review or lawsuit is ongoing or may occur during the collaborative process. Whether a collaborative process can take place simultaneously should be determined on a case-by-case basis.

SETTING UP A SUCCESSFUL PROCESS

- ✓ **Identify preexisting internal and external legal constraints before beginning a collaborative process.** Some of these legal issues, like the trust land mandate, may be obvious. However, other legal constraints may be unclear. With trust land management issues and stakeholders in mind, one should survey federal, state and local law to determine which regulations will apply to the collaborative planning process. An assessment of how those laws will affect the process is also helpful.
- ✓ **Define “collaboration” before initiating a collaborative process and clarify how the process will relate to agency decision-making.** “Collaboration” evokes different meanings for different people. Drafting a common definition prior to beginning collaborative planning will help people understand what the process should and should not entail. Specifying the breadth of stakeholder representation, degree of process transparency and the relationship of the process to agency decision making are useful starting points for drafting a definition of collaboration. Include this definition with the other information distributed about the impending process.
- ✓ **Allocate resources to provide the necessary time, staff and skills to the collaborative planning effort.** Collaboration is often a time-intensive endeavor and can require a variety of process management skills, in addition to scientific, technical and even legal expertise. Participants should acknowledge these demands up front so that the necessary financial and staff resources can be acquired to sustain the process.
- ✓ **Collaborate in good faith.** Successful collaborative planning requires that stakeholders participate fairly and honestly. A stakeholder should not participate in a collaborative process knowing at the outset that he or she will leave the table to pursue legal action or other contrary efforts. Likewise, a stakeholder should understand and be candid about what he or she can and cannot agree to during discussions.

DETERMINING WHO WILL PARTICIPATE

- ✓ **Ensure that the person or persons responsible for selecting collaborative group members is perceived as legitimate and unbiased.** Before beginning the selection process, consider how those responsible for identifying and choosing participants are perceived by various stakeholders. This assessment may be simply internal reflection, or may require inquiry into outside perceptions.
- ✓ **Identify all “stakeholders” and involve representatives of all affected interests those who are interested in participating and are legally-appropriate; however, limit membership to a manageable size.** Stakeholders include individuals with a financial stake (e.g., beneficiaries, adjacent landowners and current lessees), legal jurisdiction (e.g. federal and state agencies, county, city, tribes and water districts), or expressed interest (e.g. environmental, recreation and industry groups). To assess these stakeholders’ interest in the process given the time commitment and other considerations, make inquiries via mail or

other communication. Those stakeholders who express a willingness to participate should be given an opportunity to do so, either personally or through a representative they agree to.

A review of preexisting legal constraints like the trust land mandate will help identify which stakeholders should be invited to participate in the collaborative process. If these legally-appropriate stakeholders do not want to participate or cannot do so, then the group should consider how to best work with them to ensure that their legally-significant interests are considered during the process. A review of legal issues also may identify stakeholders who should not participate in the collaborative process because of conflicting legal obligations.

Participation does not necessarily require a seat at the decision-making table. Interests may need to be consolidated if the number of stakeholders is unmanageably high or if the number of interests represented is unbalanced.

- ✓ **Document how members were selected and establish procedures to adjust membership composition to account for additional interests, process changes or attrition over time.** Group size may need to expand to accommodate additional interests after the process begins, and process changes may increase or decrease the range of stakeholders also may necessitate a reassessment of participants to ensure that the correct stakeholders are involved. Additionally, because collaboration can be time-consuming, attrition may occur. The group should anticipate this possibility and create a plan for replacing a stakeholder representative.
- ✓ **Clearly define interests and responsibilities for each stakeholder involved in the process.** Set aside meeting time to candidly discuss the interests of each participant and whether these are personal interests or those of a particular stakeholder group.
- ✓ **Hold representatives accountable for their responsibility to their interest groups and confirm that they are accepted and trusted by constituents.** If participants are selected to represent a larger interest group, communicate with that group to verify that the individual has their support, as well as the authority to speak on their behalf. Also, clarify expectations for how representatives will inform their constituents and solicit feedback that can be brought to the table.
- ✓ **Include local public officials in the process.** Elected officials represent the general public and broaden group membership. Encourage their continued participation to boost the legitimacy of the process and galvanize external support and resources for the planning effort
- ✓ **Anticipate and prepare for potential challenges to membership composition.** The collaborative group should have a concrete rationale for membership selection to revisit later if questions are raised about group composition. The group also should brainstorm how to respond if excluded individuals or groups challenge the process down the road.

ORGANIZING THE PROCESS

- ✓ **Consider allowing parties to jointly select and fund a professional, neutral and knowledgeable facilitator to help manage group dynamics and guide the collaborative process.** A trained facilitator can help the group identify interests and build common ground, in addition to providing structure to meetings. Facilitation is most effective when the group perceives it as neutral, with no predisposition towards certain outcomes or affiliations with interested parties. By jointly selecting a facilitator, the group will increase this individual's credibility and trustworthiness. Likewise, the group should split the costs for the facilitator among several parties, or raise funds from grants or donations.

When researching facilitators, the group should consider the scientific, technical and legal issues involved. The group should look for a facilitator with background knowledge and relevant past experience. However, if facilitator can quickly familiarize himself or herself with the issues at play, then knowledge and experience may be less of a determining factor.

- ✓ **Encourage stakeholders to assume formal and informal leadership roles to help manage group dynamics, galvanize public support and guide the collaborative process.** Formal leadership may include a group chairperson, spokesperson or meeting coordinator to help facilitate meetings, reach out to media, represent the group to the trust land agency and/or make final decisions when agreement cannot be reached. In addition to formal leadership, the group should encourage members to assume informal leadership roles to provide the energy and commitment needed to keep members involved in the process and working towards an end goal.
- ✓ **Take advantage of various legal options to structure the collaborative group.** A group may be able to incorporate as an Internal Revenue Code §501(c)(3) non-profit organization or may consider drafting a Memorandum of Agreement with another party to increase its fundraising capabilities, enable it to enter into legal agreements with other entities, increase its credibility, and potentially expand its influence over decision making.
- ✓ **Set and adhere to a timeline and deadlines, recognizing that collaborative processes often require more time than initially thought.** Creating a joint work plan that establishes realistic deadlines that account for specific participants' needs can help keep people on track and provide a framework to measure progress. By providing a set of interim goals, these deadlines will motivate periodic decision making and move the group forward in their planning efforts.
- ✓ **Identify process objectives at the outset of collaborative planning.** Jointly developing a set of well-defined goals give participants a shared understanding of what they are there to do, increases their likelihood of successfully realizing those goals, and guides the planning process along the way. Objectives can take the form of a mission or vision statement, guiding principles or shared goals.
- ✓ **Create ground rules as a group to guide and facilitate interactions among participants during the process.** Ground rules will vary depending on the stakeholders involved and issues under review in the collaborative process. A group can use ground rules to encourage

productive behavior like common courtesy, candor and listening with an open mind. Ground rules also can discourage destructive behavior by prohibiting activities like side meetings and allowing for cooling off periods.

- ✓ **Consider the timing and location of meetings to accommodate different participants' schedules and needs.** The group should find a location that minimizes total travel time of the participants or rotate locations to accommodate for unequal travel requirements. The group also should consider participants' professional and personal schedules when choosing a meeting time to ensure greater turnout and hence input at each meeting.
- ✓ **Determine whether and how to share planning costs among participants and keep track of these costs as the collaborative process progresses.** These costs may include copying, telephone, postal and travel expenses. If the group decides to share these costs, then the group should consider possible agreements such as fundraising to cover expenses, having the "lead" agency pay a larger portion of process costs, or determining payment based upon which stakeholder(s) ultimately own the product produced. To keep track of planning costs, participants should save receipts and keep track of time spent outside of meetings on preparation and other process-related activities.

CREATING A DECISION-MAKING STRUCTURE

- ✓ **Distinguish between decision-making power and decision-making authority and clarify how power is shared between the collaborative group and trust land decision makers.** The state trust land decision makers cannot abdicate their decision-making authority; however they can share decision-making power. This division of power should be explained and accepted from the outset of the collaborative process so that group members and the ultimate decision makers understand their respective roles. A group charter is one way to clarify this sharing of power.
- ✓ **Develop and agree upon a clearly-defined decision rule at the outset of the collaborative process.** This rule or set of rules should explain how the group will make decisions. Will the group vote on issues? If so, will the group require majority approval or unanimity? If the decision rule requires "consensus," be sure to clearly define that term since it evokes different meanings for different people.
- ✓ **Specify voting procedures if the group decides upon that decision-making approach.** If voting is used in the collaborative process, then the group must decide how to allocate voting privileges among members. A process benefits from having equal voting rights. However, if a process requires that only certain members be allowed to vote, then the group should make that decision jointly.
- ✓ **Consider using minority reports or decision matrices to make difficult decisions.** A minority report enables those group members who disagree with the majority on an issue to document their opinions. This approach often is used when consensus cannot be achieved. Allowing the group to only document substantive differences encourages constructive dissent

instead of disagreement for the sake of disagreeing. Likewise, decision matrices can assist a group in making sense of a complex decision, by identifying a range of decision options and then enabling the group to rank and re-rank them to meet the goals of the collaborative process.

HELPING PARTICIPANTS WORK TOGETHER

- ✓ **Encourage relationship building through formal and informal activities to help the collaborative group overcome stereotypes and foster trust and cooperation.** Formal group activities like site visits and other field trips can help participants build new relationships or mend old ones. Likewise, informal interactions such as carpooling and group lunches can help participants get to know each other better as individuals, rather than representatives of particular interests.
- ✓ **Identify and challenge unstated agendas and interests as early as possible to ensure transparency and avoid miscommunication and impasses.** Consider setting aside meeting times at the outset of the process to share interests and objectives and instituting ground rules that discourages hidden agendas.
- ✓ **Communicate frequently with the trust land decision makers if they do not have a seat at the table.** In addition to providing trust land decision makers with frequent updates (which may be their chosen level of involvement in the process), the group periodically should check in with decision makers to ensure that the process is on track and still has the support of the trust land agency. Meetings or presentations between the agency and either the entire group or selected group spokespeople can maintain the flow of communication.
- ✓ **Update the public periodically about the collaborative process and encourage public comment to gain additional perspectives and public buy-in.** To ensure open communication with the public, the group can open its meetings to the public and/or hold public hearings on particular issues. Whichever approach is chosen, the group should advertise these opportunities in the press. The group also should consider inviting the press to these meetings to ensure wide dissemination of information about the collaborative process. Publishing and distributing a newsletter and creating an informative website are additional ways that a group can share information with the public. To facilitate public input, the group can create an email address to which comments can be sent.

DEALING WITH INFORMATION

- ✓ **Reserve meeting time throughout the collaborative process to learn about the trust land mandate and other legal and technical constraints; do not assume this information is commonly understood.** Presentations by the trust land agency and other informed groups can educate participants about the unique nature of state trust lands. Because these issues are at the core of the planning process, this education effort should continue throughout the process to ensure group understanding and acceptance.

- ✓ **Determine from the outset what scientific information is necessary to make informed decisions and work to acquire it before moving forward with the process.** Before exploring substantive issues, the group should identify what issues are in question, what the group needs to know, and what sources the group will accept as legitimate information to move forward. From this assessment, the group should determine what resources it needs to begin making decisions. These resources may include watershed maps, fire history documents and species data.
- ✓ **Recognize that scientific information is not a panacea, but rather a tool to assist people and policy-makers.** While the group should determine upfront what scientific information is needed to make decisions, it also should recognize science's limits. Tools like scientific modeling are only as good as the information applied to it.
- ✓ **Use subcommittees or task forces to take advantage of stakeholder knowledge and efficiently research scientific and technical issues for the larger group.** Dividing into smaller subcommittees or task forces enables the group to capitalize on stakeholder expertise and efficiently tackle a variety of scientific and technical issues. Alternatively, creating subcommittees or task forces that are separate from the collaborative group and serve in an advisory role enables the group to benefit from an even wider knowledge pool.
- ✓ **Hire professionals to help the group process information and develop a feasible final product.** While group members provide a variety of skills and resources, few, if any, may have the expertise necessary to turn ideas into a final product or conduct specialized analyses. Trained professionals like planners, economists, scientists and consultants can fill that void. For example, many groups attempt benefit-cost analyses, but few are equipped with the economic skills needed to value non-market outcomes.
- ✓ **Request legal or policy clarification from the state attorney general or agency officials when needed to move the collaborative process forward.** A process may become mired in disagreement about legal or policy issues such as the proper relationship between the collaborative group and a state agency or the environmental impacts of a proposed action. An attorney general opinion or formal agency opinion can provide the group with the certainty necessary to move onto other issues.

IMPLEMENTING AGREEMENTS

- ✓ **Focus at the outset on creating a final written agreement that will satisfy the trust mandate.** Strategies to help the trust land agency realize its legal obligations may include identifying revenue generation as a measure of success in the final product or including tools that allow the agency to achieve revenue goals.
- ✓ **Create measures of success in the final agreement to facilitate implementation.** Setting short-term and long-term targets and milestones can provide a group with the structure and incentives necessary to ensure implementation and measure progress.

- ✓ **Create an implementation structure that builds on the relationships established during the collaborative process.** Professional and personal connections, as well as familiarity with the underlying issues can help transition from theoretical ideas to action. Establish a spin-off implementation committee to meet regularly with agency staff and help carry out a plan.