

MEMORANDUM

TO: Participants and Other Interested People

FROM: Pat Field, Consensus Building Institute
Bob Keiter, Stegner Center for Land, Resources and the Environment
Matt McKinney, Center for Natural Resources & Environmental Policy

SUBJECT: Summary of March 16, 2018 Working Session

DATE: April 16, 2018

Twenty people gathered at the Stegner Center on March 16, 2018 to discuss the options presented in *The Future of Federal Public Land and Resources: A Needs Assessment (November 2017)*. See Appendix 1 for a List of Participants. After some opening comments by the conveners, the participants considered the merits of the two major options presented in needs assessment:

- (1) Convene a national policy dialogue to review federal public land law, policy, and governance; convene a conference and produce a book to promote reform;
- (2) Mobilize and engage a group of leaders representing the diversity of interests and uses of federal public land and resources; seek agreement on a common vision for the future of these lands; identify shared values, principles, and strategies needed to achieve that vision.

Key Messages

1. The last Public Land Law Review Commission, which completed its work in 1970, is not a useful model to address what is/is not working today with respect to federal public land law, policy, and governance. During the last Commission, many members of Congress were very informed and engaged on public land issues, and the political climate was more cooperative and less adversarial – elements that simply do not exist today. That Commission was also very well-funded and took several years, producing many reports and convening many opportunities for public engagement.

The problems and challenges of public land management today are so complex and divisive as to be, collectively, unbounded when considered together. The scope of a comprehensive review is so broad and large that it would cost tens of millions, and would not likely be able to address the scope and scale of public lands issues today.

It is hard to see a path toward having much, if any, impact. In sum, the Public Land Law Review Commission approach seems inappropriate given the complexity of today's public land management problems.

2. Visioning processes are inherently limiting for a number of reasons. First, it is hard to predict the future with any certainty, particularly in light of the impacts of climate change. Second, no matter how inclusive a visioning process might be, it will inevitably leave out certain stakeholders. Given these limitations, it is important to have vision to know where you want to go.
3. Rather than focus on a comprehensive review or a visioning process, many participants agreed that it might be more effective to focus on issues or problems that are more bounded in scope and have a clear and compelling path to implement the outcomes of any process. The selection of issues or topics should also be guided by the ripeness or readiness of people to address the issue, and whether appropriate data and evidence is available to inform the process. The participants also talked about the importance of articulating a clearly defined goal and focus for such problem-solving; engaging all stakeholders and sovereigns; framing the issue at the appropriate scale; creating modest expectations; and seeking marginal improvements.

Options Going Forward

Within the context of these three key messages, the participants identified several options going forward.

- *Develop strategies to manage recreation.* Examine the impact of recreation on federal public lands and explore alternative mechanisms to generate funding to mitigate impacts, manage capacity, and ensure public lands are not “loved to death.”
- *Explore the merits of focusing on wildfire management.* Realize that several initiatives by Congress, the agencies, and other are also focused on this issue. See if there is a need to add value and/or fill gaps.
- *Improve intergovernmental consultation and coordination.* Develop mechanisms to facilitate better dialogue and coordination among local, state, tribal, and federal land management agencies. One way to do this is to examine the intergovernmental consultation provisions across FLPMA, NFMA, NEPA, and so on.
- *Bend and adapt the system incrementally.* Although it may be unrealistic to review the foundational laws governing public land management in any comprehensive way, it may be worthwhile to examine the edges or margins of the current legal and institutional system to clarify what could be tweaked, changed, or improved to make the existing system function better.

- *Examine public interest standards.* Rather than examine how all federal public land laws have been implemented, review the public interest standards contained in most laws and how they are/are not used to guide decision-making and management. Do these standards simply call for multiple-use, or do they contain an element of preservation and protection that is unrealized.
- *Craft a more predictable and sustainable strategy to fund rural counties.* Rural counties have a fundamental problem in how they fund their budgets vis-a-vis federal lands. Their budgets are necessarily tied to fees from extraction, they are subject to the vagaries of energy and mineral markets, and the overall percentage of their budget from federal dollars is quite high. Headwaters Economics is helping lead an effort to craft a more predictable and sustainable funding strategy. This might be a useful model to emulate.
- *Improve awareness of the problem.* Many Congressional and state elected leaders do not seem to appreciate the economic and demographic trends defining the West or the role of federal lands in local and regional economies. Focus on framing and communicating the problem in a forward looking way so diverse constituents understand why reforms are needed. At a minimum, develop a common problem statement for the next generation. The alternative to no action is untenable.
- *Connect community-based collaborative efforts.* Given the trend in community-based collaboration to address public land and other issues, there may be value in connecting the various initiatives throughout the Rocky Mountain region to build their individual and collective capacity. [Note: The Center for Collaborative Conservation at Colorado State University and the Center for Natural Resources & Environmental Policy are currently leading such an effort. Please consult Matt McKinney for more information].
- *Delegate authority to community-based collaborative groups.* The collaborations we have going on are a good start, but we need to empower regional, county, and state level groups with opportunities to not just advise and consult, but to make decisions.
- *Foster new sources of funding.* Revisit how federal land management agencies are funded. While stakeholders may disagree on many public land management issues, most agree that the agencies are underfunded with large backlogs of deferred maintenance and insufficient staff to manage an increasing demand for use. Catalyze and facilitate a dialogue about creating new and additional sources of funding.
- *Develop new approaches to integrate diverse ways of knowing.* Given the current assault on science, as well as the demand to better integrate traditional knowledge into public land management, develop one or more pilot projects to demonstrate how diverse ways of knowing may complement one another and otherwise improve decision-making and management. Seek agreement on what we mean by “credible

science,” and consider scenario planning as a way to imagine different futures with high uncertainty rather than creating a single vision.

Next Steps

The conveners agreed to summary the results of the working session, distribute a draft of the summary to the participants for review and comment, and explore options on how best proceed.

Appendix 1: List of Participants

1. William Barquin, General Counsel, Kootenai Tribe/Nation
2. Bret Birdsong, Professor, University of Nevada School of Law (former Deputy Solicitor, US Department of the Interior, Obama Administration)
3. Sharon Buccino, Natural Resources Defense Council
4. Pat Field, Co-Director, Consensus Building Institute
5. Steve Jester, Executive Director, Partners for Conservation
6. Bob Keiter, Acting Dean and Professor, University of Utah College of Law
7. Brecken Larson, law student, Washburn School of Law
8. John Leshy, University of California-Hastings College of Law (former Solicitor, US Department of the Interior, Clinton Administration)
9. Matt McKinney, Director, Center for Natural Resources & Environmental Policy, University of Montana
10. Jeff Mow, Superintendent, Glacier National Park
11. Peter Pollock, Director of Western Programs, Lincoln Institute of Land Policy
12. Ray Rasker, Director, Headwaters Economics
13. John Ruple, Associate Professor, Stegner Center for Land, Resources, and the Environment, University of Utah
14. Danya Rumore, , EDR Program Director, Stegner Center for Land, Resources, and the Environment, University of Utah
15. Lynn Scarlett, Co-Chief, External Affairs Officer, The Nature Conservancy (former Deputy Secretary, US Dept. of the Interior, Bush II Administration)
16. Mary Sexton, former county commissioner and Director, Montana Department of Natural Resources and Conservation
17. James Skillen, Professor, Calvin College
18. Jay Tanner, Board Member (Utah), Partners for Conservation
19. Mary Wagner, former Associate Chief, US Forest Service
20. Rebecca Watson, Welborn Sullivan Meck & Tooley, P.C. (former Asst. Secretary for Lands and Minerals Management, US Dept. of the Interior, Bush II Administration)