

Collaborative Management of Protected Areas, with Examples of Collaboration between Native American Tribes and US Federal and State Agencies

Introduction

In many regions, protected areas have been established with little recognition of local community rights and traditions, and are managed to exclude consumptive uses or limit human activities. Recently however, the social, economic and cultural costs of such exclusive management approaches have become more widely recognized, particularly in the context of the rights of local and indigenous peoples. In addition, there is concern over the failure of protected areas to achieve conservation objectives, in part due to the existence of conflicts with local communities and other stakeholders. As a result, there is greater attention on more ‘inclusive’ models of management that allow for the integration of use by local communities with the more conventional conservation goals of protected areas, and engage these and other stakeholders through some form of consultation or involvement in management and planning. Such ‘collaborative approaches’ are increasingly being adopted for protected areas across the world, and there is growing interest in effective strategies to establish and maintain these more complex management arrangements.

In the US, the relationship between federal agencies and Native American Tribes with respect to management of lands and resources has not traditionally been one that favors Tribes’ participation or input. Nonetheless, a number of tools and strategies have been used by tribes and agencies to foster more cooperative relationships.¹ The purpose of this document is to briefly summarize the field of collaborative management of protected areas, and present examples of different ways in which collaboration is currently being carried out between Tribes and federal agencies.

Collaborative Management of Protected Areas

Collaborative management, or “co-management” of protected areas entails the sharing of power and responsibility for protected area planning and management between the government and local resource users. Co-management is grounded in a partnership arrangement that combines state control with local, decentralized decision-making and accountability and that, ideally, combines the strengths and mitigates the weaknesses of each. The basic tenet of collaborative management is that the state (typically an agency with jurisdiction over an area) can negotiate a partnership with other relevant stakeholders (in particular local residents and resource users) which “specifies and guarantees their respective functions, rights, and responsibilities with regard to the (an area or set of resources)”.² Collaborative management differs from other types of participatory conservation in that it entails an official distribution of responsibility and authority, although with the recognition that it is generally not possible or desirable to vest all management authority in the local community.

Collaborative management is best understood not as a fixed state, but rather as a process along a continuum from complete government control to complete local control (Figure 2.1).³ On the far left side of the continuum, government agencies maintain complete authority over natural resource decisions. Moving toward the right, participation increases, but still is limited to the passive provision of information and benefits offered by many conventional conservation programs. These arrangements are typically viewed as “weak” forms collaborative management. Local rights and responsibilities increase as one moves toward the right side of the continuum. The “stronger” forms of collaborative management, on the right side of the continuum, are based on pluralistic institutions in which stakeholders share authority and responsibilities for management and decisions are approved by consensus. On the extreme right, authority is vested in local stakeholders and agencies have no role in management decisions. These are rare, but some PAs established to protect

¹ See for example, King, 2007.

² Borrini-Feyerabend, 1996: 8.

³ Carlsson and Berkes, 2005; Borrini-Feyerabend, 1996; Borrini-Feyerabend et al, 2004.

indigenous groups ancient land claims have fairly autonomous control, such as the Kuna Yala Reserve in Panama.⁴

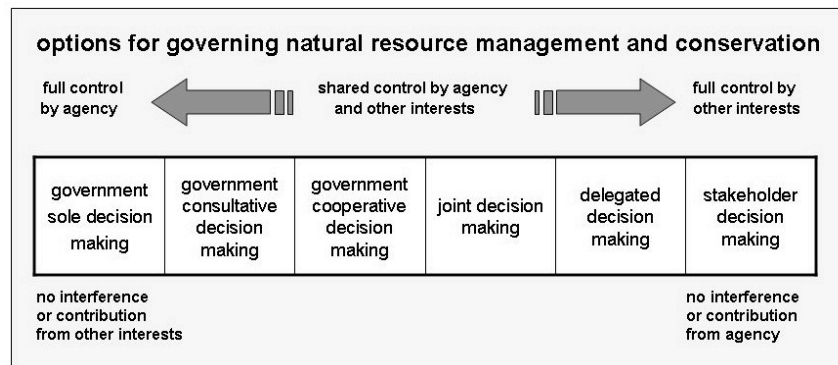


Figure 2.1 Options for governing natural resource management and conservation

Thus, there are many forms of collaborative management, and the degree of sharing of authority for management varies on a case-by-case basis. What is common among these arrangements however, is the need for effective multi-stakeholder negotiation and planning based in a learning environment of mutual trust, and the creation of resilient institutional arrangements that can accommodate a range of interests, styles of interaction, and differing levels of power and influence among those involved.

Why Adopt a Co-Management Approach?

For the state, co-management offers a more equitable approach for addressing the interests of those affected by protected areas management, opportunities to capitalize on local knowledge of the area and its values, and a more proactive strategy for engaging these stakeholders in a cooperative effort. These advantages can be compelling in light of limited funding capacity for management activities, and in the face of limited compliance or outright opposition to management regulations from local interests that may have been harmed or marginalized by the creation of the protected area.

Co-management approaches are not without costs and risks however, including the challenge of managing complex multi-stakeholder relationships, reaching suitable agreements with stakeholders on the appropriate sharing of management authority and accountability, and increased costs and time required for planning activities.

Key Issues in Co-Management of Protected Areas Management

There are numerous challenges inherent in co-management of protected areas, many of which are shared with natural resource co-management arrangements⁵. The following three issues are of particular importance, however, in relation to the management of protected areas per se and accordingly have received increasing attention among international practitioners.

- *Social Equity and Conservation:* Concerns over how the costs and benefits of protected areas are distributed among stakeholders has caused many practitioners to call for greater social equity in the planning and management of protected areas. There is also growing recognition of the need for local community support to ensure that management objectives of protected areas can be achieved—particularly in the context of forced relocation, elimination of access to important

⁴ Chapin and Breslin, 1984.

⁵ See Dugelby and Griggs, 2006 for a full discussion of these issues and “best practices” in protected area co-management.

natural resources, and removal of control or tenure over land and resources. Collaborative management of protected areas offers a vehicle to address these issues, and to cultivate a long-term commitment to the shared benefits of success.

- *Rights of Local Populations:* A large percentage of the world's protected areas were established on lands previously held in common by communities but perceived as empty, unclaimed territory. In some cases, resident populations with customary rights and traditions were relocated or their access to land and resources severely restricted, typically without any form of compensation. Although it is widely held that local communities should be informed, and preferably involved in the deliberations concerning the possible creation of protected areas, the reality is that the rights of resident groups continue to be ignored. To this day, the practice of establishing protected areas over privately titled or communally held lands—providing little clarity of how the designation affects resident ownership or use rights—is still fairly common. Collaborative management of protected areas provides a mechanism for recognition of the rights of local populations, and a process to reconcile these interests with national or regional conservation objectives in a structured, constructive manner.
- *Compatibility of Conservation and Social/Community Objectives:* Despite renewed attention to the interests and rights of those affected by protected areas, debate continues over the degree to which these imperatives can be successfully reconciled with the more specific conservation objectives for which many protected areas were created. For example, it has been argued, “parks were designed to protect nature, not to cure structural problems such as poverty, unequal land distribution, and resource allocation, corruption, economic injustice, and market failure.”⁶ There are some promising recent examples suggesting that reconciling the interests of communities and conservation can in fact be achieved. Nonetheless, if success is to be realized, collaborative approaches to protected areas must wrestle with finite limits, and achieve clarity with regard to the scope of conservation objectives in a larger, societal context.

Examples of Tribal Collaboration with Federal Agencies in Protected Area Management

Here we present a range of examples of collaboration arrangements between Native American tribes and US federal and/or state agencies. We include examples of both protected areas and species co-management agreements. The information in this section is by no means exhaustive or meant to serve as an analysis of the potential for establishing co-management agreements between tribes and agencies. The history of these agreements is mixed in terms of their value to tribes, reception within the environmental policy and conservation sectors, and benefits to participating agencies.⁷

Protected Area Co-Management

Grand Portage National Monument

(Tribal participation in monument creation and limited contractual participation in management)

This park, established in 1951 is very different from other early national parks in that control over the land resulted not from forced displacement, but rather from Grand Portage Band of Minnesota Chippewa (“the Band”) and Minnesota Chippewa Tribe (MCT) hoping both to protect a site of significance to the MCT and the Band, the NPS, and the public, and reap some of the economic benefits of a federal endeavor.

⁶ Brandon 1998

⁷ See, for example, King 2007

GPNM is located in the northeastern tip of Minnesota and follows the Grand Portage trail from Lake Superior to Fort Charlotte on the US-Canada border (commemorating the fur trade trail). The Monument transects the reservation of the Band. The Band and the MCT donated approximately half of the Monuments 710 acres.⁸

The Band's participation in the management of the Monument by donating the land for the Monument, securing the language with the enabling legislation that guarantees the MCT and the Band and their members certain rights, and continuing to advocate for an active role in Monument management. The Monument enabling legislation does not provide for co-management, but it does recognize certain rights and privileges of the Band and the MCT. Many of these privileges and preferences are aimed at promoting tribal economic development. For example, it provides the MCT tribal members privileges such as visitor accommodations and guide services, as well as preferential employment within the Monument. Perhaps of greatest significance to the co-management arena is the fact that the Band has secured an annual funding agreement under the Tribal Self-Governance Act of 1994 to assume control over the Monument's maintenance program.⁹

Grand Portage State Park (Co-management with State of Minnesota)

The Band has recently participated in the creation of the Grand Portage State Park and cooperatively manages the land around Pigeon Falls (initially designated as part of an earlier Indian Park proposal by the Band). Like the Monument, the state park lies within the Grand Portage reservation. The State of Minnesota acquired the land, but unlike the Monument, it did not retain ownership. Instead, it donated the land to the Band, and the Band leases it back to the state for operation as a state park. GPSP opened to the public in 1995 and is co-managed by the Band and the State.¹⁰

Badlands National Park – South Unit (Initial co-management and training with transition to Tribal National Park with full tribal control – *Proposed*)

There is currently a proposal to re-establish the South Unit of Badlands National Park as the nation's first Tribal National Park. The proposal¹¹ calls for a transition of park management to the Oglala Sioux Tribe (OST). The park would remain closely associated with the national park system.¹²

According to the Draft General Management Plan and EIS¹³, "During the transition of park management from direct NPS oversight to the OST, NPS employees would staff administrative and resource positions, mentoring Tribal employees in managerial and other skills through on the job and in-service training and other professional development programs. As Tribal employees develop necessary skills, they would step into positions previously held by NPS staff and assume responsibility for park operation. As soon as practicable, the park would be wholly under Tribal management."

The most recent information we have on this case study comes from the aforementioned Draft Management Plan. An update on this project will be forthcoming.

⁸ The Band donated 258 acres; the MCT donated 50 acres. King 2007: 509

⁹ Long before the Band petitioned to enter into an AFA with the NPS under the TSGA, the NPS and the Band explored the possibility of establishing an Indian Park adjacent to the GPNM. In addition, King (2007) describes a long history of the Band exploring tribal management options over the lands of the Grand Portage area. For more details on this history see King 2007.

¹⁰ For more information on this case study see King 2007

¹¹ see South Unit Badlands National Park: Draft General Management Plan and EIS, August 2010

¹² Signs featuring the OST logo as well as the NPS arrowhead would identify the Tribal National Park. Federal appropriations and entrance fees would fund the Park.

¹³ See note 11: iv

Canyon de Chelly National Monument

(Limited shared decision-making, contractual participation in management)

Representing one of the longest continuously inhabited landscapes of North America, the cultural resources of Canyon de Chelly in northeastern Arizona include distinctive and remarkably preserved architecture, artifacts, and rock imagery remarkably preserved integrity. Canyon de Chelly also sustains a living community of Navajo people, who remain connected to this landscape of great historical and spiritual significance.

Canyon de Chelly NM was established in 1931 by presidential proclamation. Canyon de Chelly is unique among National Park Service (NPS) units, as it is comprised entirely of Navajo Tribal Trust Land that remains home to the canyon community. Thus, although managed as a park unit by the NPS, the Navajo Nation retains ownership of the land. According to King¹⁴ “The enabling legislation,¹⁵ in addition to providing for the rights of Navajos within the monument, loosely defined what activities would be governed by the tribe and the NPS. Generally, the NPS has responsibility for archaeological resources; cultural and historic resources; objects and issues of scientific interest; and visitor services. The Navajo Nation manages water, forest, mineral and subsurface resources and grazing allotments. The Navajo Nation assumes jurisdiction, in cooperation with the NPS, over land use regulation, primarily through the tribe’s allocation of agricultural land use permits. Although the enabling legislation does not provide a clear mandate to cooperate with the tribe in monument management, the NPS and the Navajo Nation coordinate various management efforts (e.g., law enforcement, interpretation, and facilities management).”¹⁶

Recent Round River discussions with Canyon de Chelly administrative staff¹⁷ reveal a somewhat turbulent relationship between the Navajo Nation and NPS with respect to the management of Canyon de Chelly NM. Although on paper, the Monument may represent the best example of a co-management arrangement between tribes and the NPS, in practice there has been limited participation by Navajo tribal members and periods of strong resistance to NPS staff and their efforts.¹⁸ According to recent discussions with Park staff, it seems that participation of tribal members in park management has been largely limited to employment opportunities, some input in decision making.¹⁹

There have, in fact, been a number of efforts on the part of the Navajo Nation to regain control over Canyon de Chelly. The first such effort was in 1934, when a Navajo Tribal Council resolution called for the return of NPS lands within the Navajo reservation, specifically at Canyon de Chelly.²⁰ According to King²¹, “The resolution communicated the desire of the Navajo Nation to protect its own lands and provide for public use, with the acknowledgement that the Navajo ‘have a greater love for their country and its beauties than any other people can possibly have,’ ‘know more about their country and always will have a greater interest in its welfare than any other people,’ and that the “management by ourselves of our own scientific and scenic areas would give us an additional source of income necessary to maintain our ever-increasing population.”

¹⁴ 2007: 490.

¹⁵ Pub. L. No. 71-667, 46 Stat. 1161 (Feb. 14, 1931), cited in King, 2007:490

¹⁶ Interview with Scott Travis, Superintendent, Canyon de Chelly Nat’l Monument, at Canyon de Chelly Nat’l Monument, Ariz. (Mar. 23, 2004), cited in King, 2007: 491.

¹⁷ Personal communication, Tom Clark, Superintendent of Canyon de Chelly NM, 9-16-11

¹⁸ Personal communication, Tom Clark, Superintendent of Canyon de Chelly NM, 9-16-11

¹⁹ The author has more information and notes on this case study that she has not had time to analyze and include in this report.

²⁰ Brugge D.M. and R. Wilson, 1976, cited in King 2007: 493.

²¹ 2007: 493

Kasha-Katuwe Tent Rocks National Monument (Participation in management planning)

Kasha-Katuwe Tent Rocks in north-central New Mexico became a National Monument in 2001. Spanning 4,000 acres, the Monument's most prominent feature is a cone-shaped structure, the "tent," formed from volcanic rock millions of years ago. Located within an hour of Santa Fe, Albuquerque, and Rio Rancho, the Monument hosted more than 50,000 visitors in 2004.

A three-mile access road leading to the National Monument traverses Pueblo de Cochiti Tribal land. In 1997 and 2000, the US DOI Bureau of Land Management (BLM) and the Pueblo de Cochiti entered into Inter-Governmental Cooperative Agreements to jointly manage the Monument. Sandoval County maintains the access road and the University of New Mexico provides geologic interpretation. These agreements address access, visitation, budget priorities, cultural and sacred sites, facilities, operation and maintenance, natural resource management, environmental education, and land use planning. The Pueblo is actively involved in the planning process for the Monument's General Management Plan. Both the BLM and the Pueblo de Cochiti are pursuing additional funding and grants for on-site improvements.

Tribal Parks

Tribal parks, protected areas typically exclusively managed and owned by tribes²² are another avenue for pursuing a strong decision making and management role for tribes in lands of cultural value. Several tribes currently manage a number of tribal parks in the US. For example, the Navajo Parks and Recreation Department currently manages a network of tribal parks, including Monument Valley, Bowl Canyon, Little Colorado River Gorge, Antelope Canyon-Lake Powell, Window Rock, and Four Corners National Navajo Tribal Park. Other tribes that manage tribal parks include the Intertribal Sinkyone Wilderness Council, which manages the Sinkyone Inter Tribal Park in California, the Ute Mountain Tribe of the Ute Mountain Reservation, which operates a tribal park in Colorado, and the Pueblo of Santa Clara, who own and operate the Puye Cliff Dwellings in New Mexico.²³

Species Co-Management Agreements

Boldt Decision: Tribal co-management of fisheries resources

The United States 1974 legal decision, *US vs Washington*, represents a landmark case making it possible for radically different state-tribal relationships concerning natural resources management to develop. Judge Boldt, after over 100 years of marginalization by the state of the tribes of western Washington, recognizing their prior treaty rights (signed in the 1850s), gave the tribes the right to harvest up to 50% of the salmon and authority to manage on and off-reservation tribal fisheries, and stipulated that the tribes develop expertise and departments of natural resources to manage the fisheries. Over time, the state and tribes learned to work together, each bringing their own institutions to the mix, but not by equal compromise. According to Singleton, "The position of the tribes changed very little: throughout this period they demanded their full allocation and the right to exercise management authority over the fisheries and over decisions that directly affected their fisheries. State managers, on the other hand, substantially altered their decision-making rules and procedures as the bureaucratic culture of the organization was changed from above."²⁴

Alaska Native Co-Management of Marine Mammals

"Alaska Natives have a long history of self-regulation, based on the need to ensure a sustainable take of marine mammals for food and handicrafts. Co-management regulations promote full and equal

²² But typically strongly supported by funding from the US Government.

²³ King 2007

²⁴ Singleton 1998:76

participation by Alaska Natives in decisions affecting the subsistence management of marine mammals (to the maximum extent allowed by law) as a tool for conserving marine mammal populations in Alaska.

Section 119 (Co-management) Agreements may be established between NMFS or FWS and Alaska Native Organizations (ANOs), including, but not limited to, Alaska Native Tribes and tribally authorized co-management bodies. Individual co-management agreements shall incorporate the spirit and intent of co-management through close cooperation and communication between Federal agencies and the ANOs, hunters and subsistence users. Agreements encourage the exchange of information regarding the conservation, management, and utilization of marine mammals in U.S. waters in and around Alaska.

The best available scientific information, and traditional and contemporary Alaska Native knowledge and wisdom (TKW), are used for decisions regarding Alaska marine mammal co-management, to the extent allowed by law. Existing ethical principles for the conduct of research shall be applied. Under Section 119 agreements, marine mammal stocks should not be permitted to diminish beyond the point at which they cease to fulfill their role in their ecosystem or to levels that won't allow for sustainable subsistence harvest.

Agreements may involve: (1) developing marine mammal co-management structures and processes with Federal and State agencies, (2) monitoring the harvest of marine mammals for subsistence use, (3) participating in marine mammal research, and (4) collecting and analyzing data on marine mammal populations.”²⁵

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²⁵ <http://www.fakr.noaa.gov/protectedresources/comanagement.htm>