

Tribal Co-Management of Federal Lands

Opportunity and Challenges

CONCLUSIONS FROM THE
YALE CENTER FOR ENVIRONMENTAL JUSTICE
2023 TRIBAL CO-MANAGEMENT SYMPOSIUM

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FOREWORD

It is my privilege to share this foreword to *Tribal Co-Management of Federal Lands: Opportunities and Challenges*, a report that encapsulates the insights and outcomes of the 2023 Tribal Co-Management Symposium hosted by the Yale Center for Environmental Justice. This report arrives at a very critical moment in the evolving relationship between the United States and Tribal Nations. It is not merely a record of dialogue—it is a call to action that provides a framework for restoring responsibilities, relationships, and rightful roles in the stewardship of the lands we now call public.

All 2.26 billion acres of federal land in the United States was once—and remains—Indigenous land. As a citizen of the Confederated Tribes of the Umatilla Indian Reservation, and during my tenure as Director of the National Park Service, I have been honored to witness and contribute to the growing recognition that Indigenous Knowledge, leadership, and governance frameworks are essential to the care of these ancestral homelands. Co-management is not a new concept; it is the restoration of shared stewardship, guided by tradition, law, and a deep responsibility to the land, flora, and fauna.

In recent years, we've taken meaningful steps forward. Interior Secretary's Order 3403, National Park Service Director's Order #71C, and National Park Service Memorandum 22-03 have laid policy foundations to advance co-management and co-stewardship in more deliberate and equitable ways. These directives represent necessary institutional change.

This report wisely reminds us that policy alone is not enough. For co-management to be real, it must be resourced, structured for equity, and carried forward by a new generation of Indigenous stewards, land managers, and leaders.

The case studies highlighted in this report—from Bears Ears to the Columbia River—are more than examples. They offer powerful illustrations of what becomes possible when Tribal Nations are empowered as sovereigns and true partners. These stories show how healing can occur—healing of the land, of institutions, of intergovernmental trust, of people—when Indigenous Knowledge and Western science work together in good faith.

Yet, at a time when the inclusion of Tribal input, collaboration, and Knowledge in land stewardship is not guaranteed, the future of co-management depends on sustaining meaningful partnerships, respecting Tribal sovereignty, and ensuring that sacred sites and cultural landscapes are protected, not diminished.

As I begin my next chapter at Yale, I carry with me the lessons of federal service and the hopes of many Tribal leaders who have long advocated for a seat at the table and the ability to care for our sacred places. My commitment remains: to help build a future where co-management is not the exception, but the standard. This report is a step in that direction, and I am grateful to the Yale Center for Environmental Justice for stewarding this important dialogue.

With respect and determination,

Charles F. Sams III, MLS

Incoming Director of Indigenous Programs, Yale Center for Environmental Justice

Cayuse and Walla Walla Citizen, Confederated Tribes of the Umatilla Indian Reservation

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EXECUTIVE SUMMARY

In March 2023 the Yale Center for Environmental Justice convened a Symposium in Washington, D.C to discuss the current state of efforts to increase Tribal co-management of federal public lands. According to the Symposium attendees, the current structure of federal government engagement with Tribal Nations on issues of land management is deeply flawed, but is fixable. To reform this process, careful attention must be paid to both when and how Tribal Nations are invited in for co-management, as well as the funding streams that are available to support these efforts.

The United States federal government holds title to some 650 million acres of land and four federal land management agencies are responsible for managing about 95% of public lands. Every acre of land within the territorial claims of the United States, however, was sovereign Tribal land. Lands and waters are integral to Indigenous cosmologies and epistemologies, with many Tribal Nations viewing land, water, and animals as more-than-human relatives with whom they are engaged in a reciprocal relationship of care since time immemorial.

U.S. consultation with Tribes has historically occurred with a narrow interpretation of activities “with substantial direct effects” on Tribes. This approach, according to symposium attendees, needs substantial attention. Attendees argued that the federal government should create an expectation that opportunities for Tribal engagement should match the broad expertise of Tribal knowledge which exists and thus should extend to all management capacities and public lands across the United States.

- To this point, co-management has no common legal definition nor is it codified in federal law, as a Congressional Research Service report in May 2023, aptly stated. This creates both confusion and an institutional opaque environment.¹

In many ways the consultation model with Tribes with is an extension of the administrative duty of the federal trust responsibility and reflects the historical status quo. In contemporary parlance it is more closely aligned with Tribal co-stewardship than co-management as its emphasis is on soliciting the opinion of Tribes without real license and agency.

In addition, federal public lands and their benefits have been built on a foundation of settler colonialism and conquest that is often ignored or minimized. Co-management offers an opportunity to acknowledge history and to engage in the process of reversing centuries of injustice, even by taking one small step at a time.

Symposium attendees detailed three primary approaches to Tribal co-management of U.S. public lands:

1

Shortly after the Symposium was held the State of California enacted a statute, the Tribal Cogovernance and Comanagement of Ancestral Lands and Waters Act which defined co-management as follows: “Comanagement” means a collaborative effort established through an agreement in which two or more sovereigns mutually negotiate, define, and allocate amongst themselves the sharing of management functions and responsibilities for a given territory, area, or set of natural resources.” AB 1284, 2023–2024 Leg., ch. 657 (Cal. 2024).

1. Co-management conducted where the U.S. and a Tribe or Tribes enter into “638” contracts pursuant to the Indian Self-Determination and Education Assistance Act;
2. Co-management pursuant to a Memorandum of Agreement, (MOA) or a Memorandum of Understanding (MOU) between the United States agency and a Tribe or Tribes;
3. Co-management which originated in 18th or 19th century treaties between the U.S. and Tribes and have been affirmed by U.S. courts.

Three case studies are detailed here as models of Tribal co-management of federal lands:

1. The Bears Ears National Monument;
2. The Columbia River Inter-Tribal Fish Commission;
3. The Grand Portage National Monument.

The Symposium concluded with several observations and made several concrete policy recommendations:

- One common barrier Indian Tribal nations face in accomplishing co-management of natural resources of public lands is the lack of funding. Historical imbalances between Federal and Tribal lands managers persist despite increased Tribal responsibilities and rights. Key parties (Federal and state agencies, Tribal governments, the private sector and philanthropy) should mobilize to adequately resource new Tribal co-management capabilities.
- Symposium attendees recommended that the Council on Environmental Quality put forth and communicate a presumption that all federal public lands are available for co-management. To this point, co-management has no common legal definition nor is it codified in federal law, as a Congressional Research Service report in May 2023, aptly stated. This adds to both confusion and an institutional opaque environment.²
- Another common barrier identified by Symposium attendees was the lack of educated and trained candidates to fill Tribal land management positions. This is a failure of workforce development. Attendees suggested expansion of hiring pathways for Tribal citizens into federal employment in areas surrounding land management, interpretation, and wildlife issues which would expand opportunities to incorporate Tribal perspectives into co-management.

2

Notwithstanding recent codification in one state, as detailed in note 1.



Tribal members of five western Tribes celebrate the signing of the historic Bears Ears co-management agreement with federal land managers, June 18, 2022.

INTRODUCTION

A group of Tribal representatives, policymakers, scholars, and conservation funders convened in Washington, D.C., in March 2023 to discuss the current state of efforts to increase Tribal co-management of federal public lands. (See Appendix 1 for a list of Symposium Attendees). There is increasing momentum, both internal to and external to government, to (re)center Tribal perspectives on the public landscapes to which individual Tribal Nations have ancestral ties. There is policy in place, funding available, and public support is growing to return control of public lands to Tribal hands. However, implementation of co-management is sporadic and often relies exclusively on the ability of Tribal Nations to support their own participation through private fundraising.

Symposium attendees concluded that the current structure of federal government engagement with Tribal Nations on issues of land management is deeply flawed, but is fixable. To reform this process, careful attention must be paid to both when and how Tribal Nations are invited in for co-management, as well as the funding streams that are available to support these efforts.

Legal scholars have written extensively on how Tribal co-management can be improved within the legal and regulatory framework.³ For this paper, we focus on the inherent imbalance of resources between the federal government and Tribal Nations, as well as upending the understanding that Tribes have a very narrow interest in the management of public lands. Rather, we hold that Tribal Nations are interested in every aspect of public lands management in the United States, and are actively seeking to resume their relationships with landscapes across the continent. This meeting was organized to articulate these issues and identify paths for moving forward.⁴

3

Martin Nie, Monte Mills, Hillary Hoffmann, and Kevin Washburn have published articles and books on the ways that co-management can be optimized within the current system and continue to work to offer templates and tools for Tribes to interact with federal agencies.

4

It should be noted that some Federal agency directives refer to the shared responsibilities between Tribal Nations and the federal government discussed at the Symposium as co-management and others use the term co-stewardship.

CONTEXT

Federal Land Management in the United States

The United States federal government holds title to roughly 650 million acres of land in the U.S. (30% of the country's land mass), with different agencies of the federal government holding jurisdiction over and managing these lands for different purposes. Four federal land management agencies—the Department of Agriculture's Forest Service (USFS) and three nestled under the umbrella of the Department of the Interior: the Bureau of Land Management (BLM), the Fish and Wildlife Service (USFWS), and the National Park Service (NPS)—are responsible for managing about 95% of public lands. The lands administered by these four agencies are managed for various purposes, tied to the laws that created them, from recreation to ranching to the development of natural resources. Each new Presidential administration can set new initiatives for the agencies and encourage inter-agency coordination often spurred by Executive Orders and Secretarial Memos that signal management priorities in line with the current President's policy positions.

This transmutation of policy vision to implementation is supported by a fleet of high-level appointees assembled when a new President takes office. While these high-level appointees occupy positions of power at the top of the agencies, they often only stay for a portion of the President's time in office and operate from a 30,000-foot view. The daily grind of administration and land management occurs in decentralized field offices peopled by career employees who understand their work as operating under narrow mandates for a particular set of objectives on a given landscape (i.e., permits for wells at the BLM, fire prevention in forests, tourism at park units). In this context, there is often a disconnect between the political appointees driving a high-level policy agenda and the field staff working under strict timelines delineated by legislation and regulation. It is easy for a political appointee to say that Tribal co-management is a policy priority but is challenging in practice.

Each of the four agencies operates under specific mandates when managing the landscapes that fall under its jurisdiction:

- The mission of the USFS is to “sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations.”⁵ This mission is encoded in statute by The Transfer Act of 1905, the authorizing legislation for USFS, which charged the agency with providing quality timber and water for the United States.⁶ In 1960, Congress passed the Multiple Use – Sustained Yield Act, which gave USFS the statutory responsibility to “administer the renewable surface resources of the national forests for multiple use and sustained yield”.⁷ USFS continues to manage their lands under a multiple use/sustained yield mindset.⁸

5

“Meet the Forest Service,” About the Agency, Forest Service, accessed March 14, 2024, <https://www.fs.usda.gov/about-agency/meet-forest-service>.

6

16 U.S.C. § 1600.

7

Multiple-Use Sustained-Yield Act of 1960, Pub. L. No. 86-517, 74 Stat. 215 (codified as amended at 16 U.S.C. §§ 528-531).

8

In addition to MUSYA, there are several other noteworthy statutes governing the USFS operations including the following: the Bankhead-Jones Farm Tenant Act of 1937, the Clean Air Act of 1970, the Clean Water Act of 1972, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Endangered Species Act of 1973, the National Environmental Policy Act of 1969, the National Forest Management Act of 1976, the National Historic Preservation Act of 1966, the Native American Graves Repatriation Act of 1990, the Resource Conservation and Recovery Act 1976, the Weeks Act of 1911, and the Wilderness Act of 1964.

9

"About Us," National Park Service, accessed March 14, 2024, <https://www.nps.gov/aboutus/index.htm>

10

"Organic Act of 1916," National Park Service, accessed March 14, 2024, <https://www.nps.gov/grba/learn/management/organic-act-of-1916.htm>.

11

"Antiquities Act of 1906," National Park Service, accessed March 14, 2024, <https://www.nps.gov/subjects/archeology/antiquities-act.htm>.

12

"Our Mission," Bureau of Land Management, accessed March 14, 2024, <https://www.blm.gov/about/our-mission>

13

"How We Manage," Bureau of Land Management, accessed March 14, 2024, <https://www.blm.gov/about/how-we-manage>.

14

"Our Mission," U.S. Fish & Wildlife Service, accessed March 14, 2024, <https://www.fws.gov/about/mission-and-vision>.

15

"History of the U.S. Fish & Wildlife Service," U.S. Fish & Wildlife Service, accessed March 14, 2024, <https://www.fws.gov/history-of-fws>

- The mission of the NPS is to "preserve unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations."⁹ This language comes from the National Park Service Organic Act of 1916, which created the agency.¹⁰ The other significant piece of statutory language relating to the NPS is the Antiquities Act of 1906, which gives the President of the United States power to set aside public lands for the preservation of archaeological or historical sites.¹¹
- The mission of the BLM is to "manag[e] public lands for a variety of uses such as energy development, livestock grazing, recreation, and timber harvesting while ensuring natural, cultural, and historic resources are maintained for present and future use."¹² Similarly to USFS, the BLM also operates under a multiple use/sustained yield mandate—under the Federal Land Policy and Management Act (FLPMA)—managing for "commercial, recreational, and conservation activities on public lands."¹³
- The mission of the USFWS is to "work with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people."¹⁴ The agency was established in 1871 as the Office of the Commission of Fish and Fisheries. That office was merged with the Bureau of the Biological Survey in 1939 and received its authorizing statutes in 1956 with The Fish and Wildlife Act of 1956, which "authorizes the Secretary of the Interior to make decisions for the development, management, advancement, conservation and protection of fisheries resources and wildlife resources through research, acquisition of refuge lands, development of existing facilities and other means."¹⁵

It is clear that none of the agencies have statutory language prohibiting engagement with Tribal Nations for the purposes of co-managing federal lands. Some limiting factors on expanded engagement include limited resources and a lack of knowledge and vision on how to engage with Tribes in a meaningful and intentional manner.

“Tribes have a real interest in public lands. There is not a square inch of public land in the United States that didn’t used to be Tribal land. All of it is former Tribal homelands.”

— Kevin Washburn
(Chickasaw), Dean, University
of Iowa College of Law

The Complex Legacy of Public Lands

Public lands occupy a special place in the American zeitgeist. They are consistently heralded as “America’s best idea” and presented as an apolitical birthright of the American citizenry.¹⁶ Automobile companies spotlight them in their commercials and partner with their nonprofit partners.¹⁷ The most visited National Parks routinely receive millions of visitors each year. BLM lands serve as valuable grazing sites for ranchers. USFS lands offer recreation opportunities for millions of urban and suburban Americans. USFWS refuges offer opportunities to view animal populations and take in beautiful landscapes. Public lands also partly support an \$563 billion outdoor recreation industry. But these landscapes and their benefits have been built on a foundation of settler colonialism and conquest that is often ignored or minimized. Co-management offers an opportunity to acknowledge history, honor treaties and the federal trust responsibilities and engage in the process of reversing centuries of injustice, even by taking one small step at a time. It has been said before, but it bears repeating—every acre of land within the territorial claims of the United States was sovereign Tribal land. Lands and waters are integral to Indigenous cosmologies and epistemologies, with many Tribal Nations viewing land, water, and animals as more-than-human relatives with whom they are engaged in a reciprocal relationship of care since time immemorial. The distinct conception of and relationship to land held by Indigenous people was the backdrop for misunderstandings and conflicts between Tribal Nations and wave after wave of settlers intent on taking the land for themselves. It is the sacred relationship to land, however, that establishes the modern day foundations of both Indigenous science and Indigenous led conservation.

During the 17th and 18th century European colonial powers such as Britain, France, and Spain vied for control of the land on the North American continent.¹⁸ A period of prolonged warfare followed; throughout the 18th and 19th centuries, the U.S. engaged in numerous wars and military campaigns to displace Tribal Nations from their lands. Conflicts such as the Northwest Indian War (1785–1795), the Seminole Wars (1816–1858), and the Plains Indian Wars (1860s–1880s), to name a few, were fought to suppress the resistance of Tribal Nations and clear land for settlers.¹⁹

“Between 1776 and 1887, the United States seized over 1.5 billion acres from America’s Indigenous people by treaty and executive order.”²⁰ Treaties, while “lawful”, were sometimes negotiated at gunpoint and have been habitually ignored and broken. Many treaties involved “Indian Removal”, a policy promulgated by President Andrew Jackson and the War Department to sever ties between Tribal communities and their homelands. Under this policy, Tribal Nations were forcibly removed to places considered “undesirable” by settlers and federal Indian Agents. Once removal was complete, Tribes were confined to

¹⁶ As elucidated in the 2009 Ken Burns documentary: “The National Parks: America’s Best Idea.”

¹⁷ Subaru commercials partnering with National Park Foundation.

¹⁸ Elliott, J.H. *Empires of the Atlantic World: Britain and Spain in America, 1492-1830*. New Haven: Yale University Press, 2006.

¹⁹ Calloway, Colin G. *The Indian World of George Washington: The First President, the First Americans, and the Birth of the Nation*. New York: Oxford University Press, 2018.

²⁰ “Invasion of America,” Invasion of America: How the United States Took Over an Eighth of the World, Claudio Saunt, accessed March 14, 2024, <https://usg.maps.arcgis.com/apps/webappviewer/index.html?id=eb6ca-76e008543a89349ff2517db47e6>

reservations that, to this day, are more susceptible to the impacts of climate change.²¹ Tribal Nations then endured waves of federal policy aimed at “pulverizing . . . the Tribal mass,” including Boarding Schools, Assimilation, Allotment, and Termination.²² Despite these policies, Tribal Nations have retained their languages, their cultures, their lifeways, and their Sovereignty—but some of their land is now considered public land.

What we now describe as “public land management” emerged from this historical backdrop. Faced with the logistical challenge of managing vast landscapes that could not be given away under the Homestead Act, the federal government decided to delegate management authority to agencies within the Executive Branch. Historically, the goals of federal land management have been largely shaped by the demands of specific stakeholders, usually settlers, and generally individuals or companies with political leverage. Early on, these interests pushed for forest clearing and mining. More recently, ranching entitlements have driven dialogue about the rightful use of public lands, and led to conflicts like the armed occupation of the Malheur National Wildlife Refuge by the Bundy Family and their acolytes. The broadening of the land management agencies mandates has been slow to include other conservation priorities such as eco-system health, wildlife corridors, Tribal engagement, etc. These incremental expansions often lag until Congress or the Administration pushes agencies to incorporate them.

Due to the survival and persistence of Tribal communities across the continent, they offer the only unbroken train of knowledge on how to manage these landscapes in a sustainable manner. Tribal Nations and communities have always retained a deep desire to be able to hunt, fish, practice ceremonies, and steward the landscape where their ancestors walked. These desires deserve to be met with an equal commitment from the federal government to fulfill its promises of environmental justice. The creation of the Environmental Protection Agency’s Environmental Justice program in 1992, for example, exemplified a commitment, but it was only a beginning.²³

21

Justin Farrell, Paul Berne Burow, Kathryn McConnell, Jude Bayham, Kyle Whyte, and Gal Koss, “Effects of land dispossession and forced migration on Indigenous peoples in North America,” *Science* 374, no. 6567 (October 2021), <https://www.science.org/doi/10.1126/science.abe4943>

22

The quoted text belongs to President Theodore Roosevelt, who described Allotment policy using those words during his first message to Congress in 1901.

23

Environmental Justice for Tribes and Indigenous Peoples, Environmental Protection Agency, <https://www.epa.gov/environmentaljustice/environmental-justice-tribes-and-indigenous-peoples>, accessed on August 12, 2024. In establishing the environmental justice program at the EPA the Agency “understood the need to work with both federally recognized Tribes and all other Indigenous peoples to effectively provide for environmental and public health protection in Indian country and in areas of interest to Tribes and other Indigenous peoples.”

THE CURRENT STATE OF OPERATIONS DOESN'T MEET THE MOMENT

“And the thing for us though is there’s a cost to energy. And our people have borne that in the Northwest. And as solar projects come or other wind projects come, we continue to bear those costs that people don’t see: remov[ing] access to root digging grounds, access to places of spiritual importance. And as we have this conversation, how do we start being part of the decisions?”

— Phil Rigdon (Yakama),
Superintendent of Natural
Resources, Yakama Nation

Currently, co-management efforts by the federal government are limited to opportunities where Tribes can provide input to public land managers busy carrying out the agency’s mandates. This agency limitation is exemplified by agencies’ engagement with Tribes based on “consultation” as required by various executive, legislative, and judicial directives. In this framework, engaging with Tribal Nations is often limited to checking off the procedural box, such as sending a letter to a Tribal point of contact with little follow-up. Tribal consultation has historically been kept to the narrowest interpretation of activities “with substantial direct effects” on one or more Tribes. According to many symposium participants such as Kevin Washburn, Patrick Gonzalez-Rogers and Gerald Torres, this approach needs a total reset. The federal government should create an expectation that opportunities for Tribal engagement match the broad expertise of tribal knowledge and thus should extend to all management capacities and public land units across the United States, including those covered by the Federal Energy Regulatory Commission.

To support this reconfiguration of co-management activities, the agencies must rebalance resources between the governmental representatives and their Tribal counterparts. When a Tribal Nation is “consulted” or invited to participate in co-management, it is implicit that they are expected to self-finance all their participation. This typically means long distance travel accommodations, sometimes travel long distances to meet the agency staff, arrange for overnight accommodations, paying Tribal staff salaries to engage with the work, paying Tribal attorneys to review the job, and cordoning off Tribal leadership time to ensure that the work aligns with the Tribe’s priorities. Why should Tribal members not receive everything the agency staff receives to participate in co-management activities, such as salary and expense reimbursement?²⁴ Without this correction, the exploitative arrangement will continue—agency staff withdrawing Tribal knowledge for their own, often career-motivated, ends.

There also needs to be a significant shift in the time available for co-management activities. One of the incongruences between an agency’s and Tribe’s approach is time horizons. The very long horizon of time that Tribal Nations often approach an issue does not fit into the current operations within the federal co-management approach. Tribes are often pressured to meet unrealistic deadlines at the agency’s convenience. Furthermore, they are threatened that their input will only be considered if provided in a format that rarely aligns with their perspective.

24

There is no parity between the resources federal agencies have at their disposal and that of even the most lucrative Tribe. Neither is there parity between even a low-ranking agency employee with a salary and equipment and an unpaid member of a Tribe’s Cultural Resources Advisory Team whose members are generally selected by the Tribe for their specialized knowledge and expertise about culture, spirituality and medicine.

Another issue with the durability of co-management between federal agencies and Tribal Nations is the impermanence of agency staff. At the Symposium, Phil Rigdon of the Yakama Nation pointed to the Army Corps of Engineers as a Federal Agency with great turnover in leadership. Agency staff often accept a post with the expectation that they'll be offered an even better post in the next 3-4 years and move to another state, leaving projects unfinished. This peripatetic nature of agency staff does not allow trust to build between the federal and Tribal representatives. Years of experience working with each other and seeing multi-year projects to fruition would create a positive feedback loop in co-management activities, where the trust and momentum built from one project can provide the foundation for the next project. Establishing trust is very difficult in the current context of inflexible deadlines, the cycling through of agency staff and misaligned format across the federal-Tribal axis.

This process reinforces the status quo based on a colonial legacy, where Tribal Nations were once wards of the federal government and are still largely confined to reservations. Marginalized by geography, limited economic resources, and without access to decision-making, the capacity of Tribal Nations to participate in the co-management of public places is minimized. They often can't even afford to visit these places recreationally. When they are considered together, these factors amount to a troubling imbalance in what staffing, money, equipment, time, and attention the Tribes have available for co-management compared to their agency counterparts. At the very least, it's an absurd oversight. In the worst, the government is setting up the Tribes to fail at co-management.

WHY DOES TRIBAL CO-MANAGEMENT MATTER?

Reconnecting Tribal communities to places from which their ancestors were once removed and providing space for these Tribal communities to participate in the management of public lands is one small step toward remediating historical injustices. Creating successful examples of Tribal Co-Management will catalyze Tribal economic development and cultivate the sharing of inter-generational Tribal knowledge. It will also benefit an agency's capacity to care for and create a new chapter in our country's relationship with public lands—one focused on inclusivity and innovative science deeply vested in Tribal knowledge. Redesigning co-management through a balancing of shared resources, elevation of Tribal input, and building in flexibility to management planning (lengthening the planning horizons and flipping the presumption so that all public lands are opportunities for co-management) – will all contribute to healing the harmful legacies of how these landscapes became “public” in the first place.

Tribal economic development would be catalyzed by restructuring the way co-management is implemented. Instead of leaning on unpaid Cultural Resource Advisory members to offer their knowledge for free, providing contracts to Tribal staff to participate and establishing preferential hires for Tribal citizens would reflect a commitment to equalizing roles. If pathways into federal land management are seen as a viable option for Tribal communities, often hundreds of miles away from the economic opportunities of an urban center, it would have cascading benefits. It would increase incentives to train youth interested in working in public lands management and staunch some of the brain drain that occurs out of necessity to seek education and jobs. Creating demand for Tribal expertise in the administration of our public lands may also encourage the cultivation of inter-generational learning and the passing on of traditional Tribal knowledge to the next generation to use as they pursue careers in federal employment.

Integrating western science with Tribal expertise would create a more capacious and dexterous toolkit for caring for our public landscapes.²⁵ The more Tribal involvement, the more the boundaries of Western conservation will be broadened and improved by the cultural and historical knowledge gleaned by the Tribal Nations that have cared for these landscapes since time immemorial.

25

See, Sonya Atalay, *Community-Based Archaeology: Research With, By and For Indigenous and Local Communities*. University of California Press, Berkeley, CA 2012.

There are many examples where traditional Indigenous knowledge and practices have benefited the environment and climate. Here are just a few examples:

- Traditional forestry burning practices of The Confederated Salish and Kootenai Tribes, the Karuk and Yurok Tribes and many others help manage ecosystems and mitigate climate impacts;
- Traditional agricultural practices, such as Hopi dry farming, emphasize crops that are drought-resistant.²⁶ The Three Sisters approach to farming, practiced by the Haudenosaunee, the Cherokee, the Wampanoag, and others, prioritizes planting corn, beans, and squash together in a symbiotic system that improves the soil and minimizes erosion;
- Traditional knowledge of the Indigenous peoples of the Northwest, such as the Yakama, Nez Perce, and Lummi, about the spawning practices of anadromous salmon, their life cycle, habitat requirements, ecological relationships, and sustainable harvesting practices, has had a profound impact on restoring the salmon population.²⁷

Co-management is a profound and vibrant force multiplier: one, it reinforces and cultivates Tribal sovereignty and self-governance; two, it resets traditional knowledge as the primacy to the approach and construct of management; three, it allows real license for Tribes to practice their own respective theology and spirituality; four, in the long run it can be a cost-effective and more financially durable way of doing business; and five, it is real time restorative justice.

26

R. Rhoades, *The Hopi People and Drought: Observations, Adaptations, and Stewardship in a Sacred Land* (PhD diss., Johns Hopkins University, 2013).

27

Columbia River Inter-Tribal Fish Commission, *Wy-Kan-Ush-Mi Wa-Kish-Wit: How Indigenous Knowledge Has Shaped Modern Fisheries Management in the Columbia River*, accessed December 10, 2024, <https://critfc.org/reports/wy-kan-ush-mi-wa-kish-wit-how-indigenous-knowledge-has-shaped-modern-fisheries-management-in-the-columbia-river/>

THREE APPROACHES TO CO-MANAGEMENT

1. Contracting to Co-Manage Federal Lands

In 1975, Congress passed the Indian Self-Determination and Education Assistance Act, codified as Public Law 93-638. This law gave federally-recognized Tribal Nations the ability to contract with the federal government for programs run by Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) and run the programs themselves.²⁸ This process has come to be known as a “638 contract”, or just a “638”. Under a 638 contract, the federal government must transfer funds and responsibility for a program to the Tribal Nation. These new revenue streams give the Tribe new avenues of sovereignty, as they can use the funding to develop their own workforce and build their own infrastructure, rather than relying on the federal government. Under the 638 process, if a Tribal Nation asks BIA or IHS to contract, the agency typically acquiesces. The agency can deny the application, and if they do the denial is appealable. It is clear that 638 contracts have become outrageously successful: currently, over half of the IHS budget is administered by Tribes under 638 contracts.

The 638 process has grown beyond BIA and IHS programs, and now Tribal Nations have the authority to enter into 638 contracts with federal land management agencies like the Bureau of Land Management (BLM), National Park Service (NPS), Fish and Wildlife Service (USFWS), and the Forest Service (USFS). 638 contracts are more limited in the natural resources arena than they are under BIA/IHS—unlike BIA and IHS, federal land management agencies have no obligation to agree to a 638 contract. Additionally, the lands under consideration for the contract must have a special geographic or cultural significance to the specific Tribal Nation and the Tribe must have proven that they can successfully accomplish the same kind of work for which they are applying to contract.

Federal statute requires the Department of the Interior to publish an annual list of public land units and/or facilities that are eligible for a 638 contract, and which specific functions a Tribe could contract for. The last list recorded around 70 NPS units and 30-40 USFWS units. Each of these units represents multiple opportunities for a Tribal Nation to execute a successful 638 contract.

²⁸
Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat. 2203 (1975), codified at 25 U.S.C. §§ 5301–5423.

²⁹
Becerra v. San Carlos Apache Tribe
602 U.S. _ (2024).

A recent decision of the United States Supreme Court will make 638 co-management contracting even more feasible. In *Becerra v. San Carlos Apache Tribe*²⁹ the Court said that when Tribes contract with Indian Health Services to operate Tribal health-care programs, Indian Health Services must also reimburse Tribes for the additional overhead and administrative costs that they incur when they are working with third parties like Medicare, Medicaid, and private insurance companies.

“The cooperative agreement also has some pretty bold language in it about working in partnership with the federal agencies. . . And it mirrors the language of the [Presidential] proclamation in many ways. It says, Tribal expertise must inform the federal agency’s management of the Bears Ears National Monument.”

– Hillary Hoffmann,
Co-Director, Bears Ears
Inter-Tribal Coalition

2. Cooperative Agreements

This approach is often called “the Bears Ears model”, because the Bears Ears National Monument (discussed below) is the most well-known example of this approach. At the heart of this approach to Co-Management is a contractual, legal framework—a cooperative agreement between the United States government and sovereign Tribal Nations. The goal of a cooperative agreement is to reach consensus and then coordinate on land management. Federal authority to enter into cooperative agreements comes from Section 307(b) of the Federal Land Policy and Management Act and from Section 323 of Public Law 105-277.

Cooperative agreements are formalized with a Memorandum of Agreement, (MOA) or a Memorandum of Understanding (MOU) between the United States agency and Tribes. An example of such a cooperative agreement occurred in central California where the Tule River Tribe of California entered into a co-stewardship agreement with the NFS for post-fire restoration work in the Sequoia National Forest, which includes hazardous fuels removal and meadow restoration. This is part of the broader effort of the federal government to integrate traditional Tribal ecological knowledge and practices into the government’s forest management and recovery strategies.³⁰

Symposium participant Patrick Gonzalez-Rogers of the Yale School of the Environment stressed the need for clear and well-structured agreements between Tribes and federal agencies. He said that the agreements are essential in outlining the specific roles, responsibilities, and expectations of each party involved in co-management. He emphasized that well-drafted MOUs help prevent misunderstandings, build trust, and provide a solid foundation for successful collaborative management efforts.

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“Tule River Reservation Protection Project,” U.S. Forest Service, accessed August 8, 2024, <https://www.fs.usda.gov/project/?project=15504>.

3. Treaty Rights

This approach is distinct from the two previous approaches in that it is rooted solely in treaty rights to natural resources.

Often conducted as a cessation of warfare, in the 18th and 19th centuries the United entered into treaties with Indian Tribes. As a result of the treaties the federal government recognized Tribes, created Indian reservations but also, significantly, the Tribes ceded vast amounts of Tribal lands to the U.S. As a result, Tribes reserved certain rights, including access to hunting, fishing, and gathering on traditional lands. In many cases, the treaties contain provisions that imply a form of co-management by preserving Tribal rights to the land. These rights are legally binding and have been recognized and upheld by U.S. courts. Examples of federal court cases which resulted in the enforcement of reserved treaty rights to natural resources are *United States v. Winans*, (enforcing the 1855 Treaty of Point Elliott),³¹ *United States v. Washington* (enforcing the 1854–1855 Stevens Treaties),³² and *United States v. Michigan* (enforcing the 1836 Treaty of Washington).³³

As a result, the federal government must engage Tribes in land management decisions that impact these reserved rights. This form of co-management often involves consultation, shared decision-making, or even joint management agreements that ensure that treaty obligations are upheld while allowing Tribes to maintain their connection to ancestral lands and exercise traditional practices.

³¹

United States v. Winans, 198 U.S. 371 (1905).

³²

United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974).

³³

United States v. Michigan, 471 F. Supp. 192 (W.D. Mich. 1979).

CASE STUDIES

“I think sometimes the perception might be at the community level that things are happening in secret and it’s contributing to some level of distress or continuing a level of distress that might have been present previously in Tribal communities, with respect to federal agencies.”

– Hillary Hoffmann,
Co-Director, Bears Ears
Inter-Tribal Coalition

Bears Ears National Monument

One of the most well-known units of public land in the past few decades is the Bears Ears National Monument. The Monument, which in what is now southeast Utah, was designated by President Obama in January 2016, reduced by President Trump in December 2017, and then restored and expanded by President Biden in October 2021.

The creation of the Monument mandated the establishment of the Bears Ears Commission, which has one elected official serving as representative from each of the five sovereign Tribes that are party to the Monument’s establishment and cooperative agreement. Those five Tribes are The Hopi Tribe, the Navajo Nation, the Ute Indian Tribe of the Uintah and Ouray Reservation, the Ute Mountain Ute Tribe, and the Pueblo of Zuni.³⁴ The objective of the cooperative agreement is to coordinate between federal agencies and Tribal Nations on land use management. In an ideal world, the development of collective goals for the management of the Monument would have been prioritized and actualized over a long timeline of intertribal discussion and then discussion with federal partners, however, because of the frenetic pace at which the Monument has been buffeted by political winds, there was not time to do this. Instead, goals are being negotiated between the Tribes and between the Tribes and the federal government while the management plan is being written. This makes the cooperative agreement—which was signed in 2021 by representatives of each Tribe, the USFS, and the BLM—all the more important. In the case of Bears Ears National Monument, the cooperative agreement has produced some barriers, barriers discussed at the Symposium by Hillary Hoffmann and other participants. Hoffmann is the Co-Director of the Bears Ears Inter-Tribal Coalition and she pointed to institutional racism and prejudice as obstacles along with external forces such as ongoing litigation that challenged the authority of the federal government to restore the monument in the first place. The creation of the Monument would not have happened without the grassroots organizing and buy-in at the Tribal community level that led to political will in the Tribal governments. However, some of the negotiations for the cooperative agreement and management plan had to be kept confidential, which created schisms between Tribal government and Tribal communities over access to information about the sacred landscape.

The Bears Ears Commission represents the five Tribal Nations that are signatories to the cooperative agreement. The Bears Ears Inter-Tribal Coalition (BEITC) is a separate entity that is a fiscally-sponsored nonprofit. Through the Commission, the Five Tribes receive dedicated funding streams from the federal government to each Tribal Nation. This funding supports work on the Bears Ears, and it addresses the need to restructure funding pathways that was identified by Symposium attendees. However, the National Monument has very few paid staff, and could benefit from dedicated funding streams to support workforce development within Tribal communities.

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Proclamation 10285 of October 8, 2021. Federal Register. Accessed August 4, 2024. <https://www.federalregister.gov/documents/2021/10/15/2021-22672/bears-ears-national-monument>.

“Anybody who has worked with the Army Corps of Engineers knows there’s a new commander every two years, and we have to reeducate [them] every two years to ‘what is a treaty,’ ‘who are we,’ ‘what are we doing and why is it important?’ Reeducation is constant with a lot of the federal agencies and state agencies. We have a lot of relationships that we’re trying to develop with landowners and other stakeholders. So, we are really thinking about innovative partnerships that haven’t existed before and what we can do.”

– Aja DeCoteau (Yakama),
Executive Director, Columbia
River Inter-Tribal Fish
Commission

“In many ways when we contemplated the future of the Bears Ears, we had to look at a model and we actually looked at Columbia River Inter-Tribal Fish Commission.”

– Patrick Gonzalez-Rogers,
Distinguished Practitioner in
Residence, Yale School of the
Environment

Columbia River Inter-Tribal Fish Commission

The Columbia River Inter-Tribal Fish Commission (CRITFC) was established in 1977 as a joint the Confederated Tribes and Bands of the Yakama Nation, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of the Warm Springs Reservation of Oregon. Each Tribal Nation signed a treaty with the United States in 1855 that contained language affirming the right of the Tribe to “taking fish in the streams running through and bordering said reservation . . . and at all other usual and accustomed stations.” These reserved rights have been upheld by federal courts time and again.

Salmon fishing in the Columbia River holds deep spiritual and cultural significance for the Indigenous peoples of the region. For these peoples, the salmon are not just a crucial food source but are also considered sacred beings integral to their way of life, traditions, and spiritual beliefs.³⁵

The establishment of CRITFC in 1977 was spurred by the dam building era in the Columbia River Basin and its drastic impact on the salmon runs. Overfishing in the Columbia River, primarily by non-Indigenous commercial and recreational fisheries, exacerbated the decline of salmon populations, further endangering the species.³⁶

In 1974, the case *United States v. Washington* was heard and decided by Judge George Hugo Boldt, in a ruling that survived numerous appellate challenges, Boldt ruled that the Tribes’ reserved rights entitled them to 50% of the salmon harvest.³⁷ With this ruling in hand, the four Tribes came together and established CRITFC to protect their treaty fishing rights and to restore fish runs.

Under the 638 process, CRITFC contracted with the Bureau of Indian Affairs to take over their fisheries program and has expanded the organization into a skilled and respected Co-Manager of the Columbia River fishery. CRITFC employs between 140-160 staff at any moment, runs an enforcement office, a maintenance center that oversees 31 treaty designated fishing sites, a fish genetics lab, and a coastal margin and ocean prediction center.

CRITFC has made extensive use of the 638 process and has accessed other funding sources, ranging from the Bonneville Power Administration to philanthropic grants. In many ways, the reputation of the organization preceeds it, and enables it to be in funding circles and conversations that smaller and less experienced Tribal or Inter-Tribal organizations would be hard-pressed to enter. There are lessons to be learned in this for how to open funding pathways for burgeoning Tribal groups that are contemplating co-management.

³⁵

Wilkinson, Charles F. *Treaty Justice: The Northwest Tribes* (2024), 9-34.

³⁶

Wilkinson, 4, 241-244.

³⁷

United States v. Washington, 384 F.Supp. 312 (W.D. Wash. 1974).

“We were significantly under a dollar rate by almost \$10 an hour with the [surrounding] cities and counties. So, we did a pay equity analysis, we raised everybody up. We increased a pay scale structure that provides incentives in the very first 10 years, versus [getting] more incentives the longer you work. And that way it’s better for recruitment. We’re trying to get more tribal folks.”

— Aja DeCoteau (Yakama),
Executive Director, Columbia
River Inter-Tribal Fish
Commission

CRITFC also is paying close attention to workforce development. The organization has a dedicated Tribal Workforce Development Program, which hosts a Salmon Camp for Tribal youth each summer that “focuses on providing culturally relevant science, technology, engineering, and mathematics experiences to foster an interest in natural resources careers and close the academic achievement gap for Native American youth.”³⁸ CRITFC also has implemented a Tribal Hiring Preference policy for open staff positions. Finally, the organization is making steps to address pay equity.

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Columbia River Inter-Tribal Fish Commission, Salmon Camp, accessed on August 20, 2024, <https://critfc.org/for-kids/home/salmon-camp/>, accessed on August 20, 2024.

Grand Portage National Monument

One of the most noteworthy examples of a successful 638 contract is Grand Portage National Monument in northeastern Minnesota. The Grand Portage Band of the Ojibwe³⁹ donated part of its reservation land to the NPS to establish the National Monument in 1958 and later entered into a 638 contract with the agency. Now the Grand Portage Band contracts for around 40% of the work at the National Monument, including park maintenance, municipal services, and workforce development for Tribal youth.

Symposium participant Kevin Washburn highlighted the Grand Portage National Monument as one of the most successful examples of Tribal contracting for co-management with the National Park Service.

The Monument preserves an area of profound cultural and historical significance. The Grand Portage was a major hub of fur trade activity and is the traditional homeland of the Grand Portage Band of the Ojibwe people, who have long been involved in stewardship of the Monument. The Grand Portage, or “Great Carrying Place,” was likely used by Anishinaabe peoples for thousands of years prior to the arrival of Europeans in the eighteenth century. *Gitchi Onigaming* is the Ojibwe term for the 8.5-mile trail route stretching from Grand Portage Bay along the shores of Lake Superior to the Pigeon River, which runs along the Minnesota/Ontario border.⁴⁰ The monument includes a reconstructed fur trade depot from the late 1700s and the 8.5-mile trail.⁴¹ The site represents the deep connection between the Ojibwe people and their land. The area was a long a meeting place for Indigenous peoples and European traders, facilitating exchange and communication.

The National Park Service, working in collaboration with the Grand Portage Band has reconstructed parts of the fort and maintains trails and buildings to give visitors a sense of life during the fur trade era.

The monument is also important for its natural beauty, nestled along the shores of Lake Superior, surrounded by forests and waterways that are rich in wildlife, and of vital cultural and spiritual importance to the Ojibwe. The Monument preserves access to the sacred and culturally significant ecosystem, which is vital.⁴² Ensuring that such monuments are protected from environmental degradation or commercial exploitation can be a crucial part of broader efforts to maintain cultural heritage and environmental integrity.

Symposium participant Samuel Kohn, Senior Counselor to the Assistant Secretary for Indian Affairs, emphasized that successful consortia and Tribal coalitions, like those working at Grand Portage, are instrumental in creating pathways for Tribes to move toward co-management and other collaborative structures, illustrating the importance of having clear objectives and collective action among Tribal entities.

39

Grand Portage Band of Lake Superior Chippewa. “Gichi-Onigaming Grand Portage Band of Lake Superior Chippewa Grand Portage Anishinaabe Grand Portage Ojibwe.” Grand Portage Band of Lake Superior Chippewa, accessed on August 15, 2024. <https://www.grandportage-band.com/>.

40

National Park Service. “Stewardship at Grand Portage National Monument.” U.S. Department of the Interior, accessed on August 15, 2024, <https://www.nps.gov/articles/grand-portage-national-monument-ojibwe-management.htm>

41

National Park Service. *Administrative History of Grand Portage National Monument*. U.S. Department of the Interior. Accessed August 15, 2024.

42

National Park Service, “Grand Portage National Monument,” U.S. Department of the Interior, accessed August 15, 2024, <https://www.nps.gov/grpo/index.htm>.

CONCLUSION AND RECOMMENDATIONS

“The cosmology for many Tribes is viewing wildlife and even landscapes as [their] relatives, and who’s going to take care of [them] better than someone who views them as their relative, right? . . . Tribes are likely to be very, very good at this . . . if we give them the opportunity to do so.”

– Kevin Washburn
(Chickasaw), Dean, University
of Iowa College of Law

There are 574 Tribal Nations that possess a formal nation-to-nation relationship with the United States government. Many of those Tribal Nations have discrete and irrefutable ancestral ties to land that is now in the public domain. Many Tribal Nations also possess a desire to reconnect with their ancestral landscapes and to participate in the decisions and day-to-day management of those lands. To bring forth and support a new model of Tribal co-management, immediate attention must be paid to the structures under which Tribal Nations and individual Tribal citizens can engage with federal land management agencies.

What follows is a list of policy recommendations stemming from conversations held by attendees of the Co-Management Symposium. One thing is clear: the ultimate goal of attendees is to pave a pathway into land management leadership for Tribal communities across the United States. Tribal Nations are uniquely placed to address challenges facing federal lands and their managers: geographically, with Tribal Nations connected to and often physically abutting sites at the furthest reaches of federal lands; and epistemologically, with Tribal Nations viewing land and wildlife as relatives. Who better to care for and manage these lands than those closest communities, who also view them as relations?

“One of my staff says: ‘co-management is evolutionary, not revolutionary.’ It does take time, it takes trust, it takes a network. It just takes funding in the right areas, especially where Tribes need it.”

— Aja DeCoteau (Yakama),
Executive Director, Columbia
River Inter-Tribal Fish
Commission

Restructure Funding Pathways

A common barrier addressed by attendees of the Symposium was the impact that lack of funding has upon Tribal initiatives. There is a distinct and appreciable gap between even the most poorly appropriated federal agency and the most lucrative Tribal Nation. Unlocking access to federal monies represents a seismic shift for Tribal communities. Symposium attendees were also quick to point out that public monies are not the only source of funding from which Indian Country could benefit. Private funding partnerships would also support greater access to co-management opportunities.

- Under federal statute, the Department of the Interior is required to annually publish a list of the park units, park facilities, and park functions that Tribal Nations can contract for under Public Law 93-638. This list of programs available for self-governance funding agreements is a valuable resource for Tribal Nations, however, the list has historically omitted far more opportunities than it has included. Symposium attendees suggested that the list be inverted, so that only units, facilities, and functions that are not viable for a 638 contract be listed.⁴³ This would incentivize the Department of the Interior to make more contracting opportunities available and increase the amount of self-governance funding flowing into Tribal communities.
- Philanthropic funders can have a tremendous impact in restructuring funding pathways. One proposal that garnered significant discussion amongst Symposium attendees was the creation of a philanthropic fund that would provide durable financial support for co-management efforts. By placing an emphasis on longer funding horizons this fund could spur more engagement with Tribes on landscapes, support an increased rate of hiring Tribal citizens at philanthropic foundations and other private partners, and develop and facilitate training for funders on how to engage with Tribal Nations and communities more effectively. Each of those goals would result in funding streams reaching Tribal communities.
- Further, there exists great potential for strengthening partnerships between philanthropic funders and federal agencies. Many NPS units have an official nonprofit partner: Grand Canyon National Park has the Grand Canyon Trust, Yosemite National Park has the Yosemite Conservancy, etc. While federal agencies and administrative units like NPS sites have prohibitions against directly receiving outside funding, nonprofit partners have been successfully and adroitly utilized to sidestep that barrier. These nonprofit partners could receive funding from philanthropic sources that can be used to fund positions for Tribal land managers embedded their partner NPS unit.

⁴³

Initially, only BIA and IHS programs were eligible for Self-Determination or 638 contracts. In 1988, Congress broadened that to any program “for the benefit of Indians because of their status as Indians without regard to the agency.” In the broadest interpretation of the 1988 amendments, most, if not all, federal programs should be eligible for 638 contracts. However, very few non-Interior agencies have made 638 contracting accessible to Tribal Nations. The USDA, only since the inclusion of funding for demonstration projects in its 2018 Farm Bill, has showcased 638 opportunities in a non-Interior agency.

“One thing I would add also to the Tribal capacity piece is workforce development. I think that’s also a place for funders to really think about with Tribes specifically, and inter-Tribal consortia, because that’s a place that is heavily underfunded. Tribes do have the forethought of really thinking about capacity, especially as we think about climate change . . . We need [a] new . . . Tribal workforce. And so, I think when we think about Tribal capacity, we have to think about how we are creating our workforce now for 10, 20 years from now.”

— Aja DeCoteau (Yakama),
Executive Director, Columbia
River Inter-Tribal Fish
Commission

Workforce Development

- Another common barrier identified by Symposium participants was a lack of educated and trained candidates to fill Tribal land management positions. This, in short, is a failure of workforce development. Symposium participant Gerald Torres emphasized the importance of workforce development, and of first training native people and then building “building permanent positions in the areas that Tribes identify as needs.” Several Symposium participants pointed out the importance of Tribal Colleges and Universities (TCUs) and the way in which TCUs could serve as essential preparatory spaces for the next generation of Tribal land managers. Patrick Gonzalez-Rogers said “Tribal colleges are playing an undervalued role and they can play a critical role in all of this. Thinking of TCUs as central players in workforce development and conservation efforts could fundamentally change how we approach co-management and build capacity from within Native communities.” Gerald Torres, Professor of Law and Environmental Justice at Yale University stressed that investing in TCUs is crucial for developing a skilled workforce that can meet the unique challenges of co-management. Symposium participants did, however, identify existing barriers to the successful contributions of TCUs as being curricular, experiential, and funding oriented. Curricular barriers could be addressed through partnership between TCUs and Tribal Governments or federal agencies to tailor curriculum to better prepare graduates for the skills required in hiring processes. experiential and funding barriers go hand-in-hand: many graduates of TCUs do not have the opportunity to serve in an intern/ externship with a Tribal Nation due to funding constraints. Philanthropic partners or federal partners can support TCUs in this manner, and create experiential learning opportunities for TCU students.
- The creation or expansion of hiring pathways for Tribal citizens into federal employment in areas surrounding land management, interpretation, and wildlife issues would expand opportunities to incorporate Tribal perspectives into co-management from both sides.

Data sovereignty arose as an existing barrier, and several attendees suggested that the federal government create templates to oversee information sharing with Tribal Nations to protect Tribal intellectual property and Traditional Ecological Knowledge. A concerted effort should be made to develop and maintain “Best Practices” documents for different sectors involved in co-management. Symposium participants Gerald Torres and Hans, Cole Vice President of Patagonia stressed the importance of developing best practices guidelines. The Tribal document could outline paths to implement co-management, the federal document could prescribe best practices for engaging with Tribal Nations, and the philanthropic document could identify ways to support Tribal communities where they are at.

Actions for the Council on Environmental Quality

As the coordinating office for federal environmental policy, the Council on Environmental Quality (CEQ) wields immense influence and power in this space. Symposium attendees identified CEQ as a linchpin in federal policy development and identified several easy actions that could be taken by the Council.

- The current *modus operandi* of the federal government is to treat co-management agreements as individual situations—as the exception, rather than the rule. This institutional approach slows the expansion of Tribal co-management and restorative justice more broadly. Under this belief, federal agencies may view any new co-management requests as either one-offs or a dilution of agency power. If CEQ were to put forth and communicate the presumption that all federal public lands are available for co-management,
- The Department of the Interior is the only federal bureau that must develop lists of landscapes which could undergo Tribal co-management. This excludes the U.S. Forest Service, which resides in the Department of Agriculture, the Commerce Department and the Office of Coastal Management, and all land managed by the Department of Defense. Expanding this mandate to all federal land management agencies would increase Tribal access to co-management opportunities.
- Additionally, there is no current requirement of federal agencies to justify why a public landscape under their management authority is not available for co-management. Instituting a requirement that justification be made would prohibit agencies from reflexively dismissing co-management as an option and would likely lead to more public lands being made available for co-management.
- Establishing a dedicated Tribal Liaison position at each federal land management agency would not only make agencies more accessible and accountable to Tribal Nations, but would also facilitate inter-agency coordination on co-management.
- The newly created White House Office of Environmental Justice and the BIA Office of Strategic Partnerships should be directed to prioritize co-management efforts when facilitating relationships between agencies, Tribes, and funders.

APPENDIX I:

SYMPOSIUM ATTENDEES

NAME	TITLE	ORGANIZATION
Qay-liwh Ammon	Professional Staff	House Natural Resource Committee
Hans Cole	Vice President for Environmental Campaigns	Patagonia
Daniel Cordalis	Co-Principal	Ridges to Riffles Indigenous Conservation Group
Aja DeCoteau	Executive Director	Columbia River Inter-Tribal Fish Commission (CRITFC)
Michel Gelobter	Executive Director	Yale Center for Environmental Justice (YCEJ)
Patrick Gonzalez-Rogers	Distinguished Practitioner in Residence	Yale School of the Environment
Hillary Hoffmann	Co-Director	Bears Ears Inter-Tribal Coalition (BEITC)
Destry Jarvis	Consultant	ORAPS LLC
Charissa Jessepe	Co-Director	Bears Ears Inter-Tribal Coalition (BEITC)
Andrea Keller Helsel	Program Officer	Hewlett Foundation
Samuel Kohn	Senior Counselor to the Assistant Secretary for Indian Affairs	Bureau of Indian Affairs
Claire Kouba	Postdoctoral Associate	Yale University
Mike LaVoie	Vice President	Native American Fish & Wildlife Society
Gussie Lord	Managing Attorney & Tribal Partner	Earthjustice
Deborah Love	Intermountain West Director	Resources Legacy Fund
Cecilia Martinez	Chief of Environmental and Climate Justice	Bezos Earth Fund
Naomi Miguel	Executive Director	White House Initiative on Advancing Equity, Excellence, and Economic Opportunity for Native Americans

NAME	TITLE	ORGANIZATION
Matthew Newman	Senior Staff Attorney	Native American Rights Fund
Cassandra Pino	Policy Manager	Native American Land Conservancy
Phil Rigdon	Superintendent of Natural Resources	The Yakama Nation
Ariana Romeo	Staff Director, Subcommittee on Indian Affairs	House Natural Resources Committee
Robert Romero	Deputy Executive Director	Native American Fish & Wildlife Society
Davina Smith	Organizer/Tribal Coordinator	National Parks Conservation Association
Erik Stegman	Chief Executive Officer	Native Americans in Philanthropy
Gerald Torres	Professor of Environmental Justice	Yale School of the Environment
Angelo Villagomez	Senior Fellow	Center for American Progress
Kevin Washburn	Dean	University of Iowa College of Law
Wendi Weber	Deputy Director	United States Fish & Wildlife Service



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