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# The Washington County Lands Bill and Vision Dixie Collaboration: A Management Model for Public Lands?

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The Washington County Lands Bill and Vision Dixie Collaboration:

A Management Model for Public Lands?

Scott Hutchins, April 2014

**Student Conflict Assessments**

Students taking *Environmental Conflict Resolution* conduct a conflict assessment based on a student-selected real-life environmental or natural resource conflict. They analyze the nature, source and history of the conflict, identify potential stakeholders and potential issues. If the conflict is, or has been, subject to a dispute resolution process, the student writes a case study identifying best practices and lessons learned, and gives suggestions of what could have been done differently and why (looking back). If the conflict is not currently, and has not been, subject to a dispute resolution process, the student designs a dispute resolution process (looking forward). Some students do a combined case study and future process design.

This student paper results from both a conflict assessment conducted for *Environmental Conflict Resolution*, and additional research and analysis conducted as a directed research project.

Students' papers posted on the [EDR Program website](#) include an Executive Summary. For case studies (looking back), this highlights the best practices and lessons learned. For dispute resolution process designs (looking forward), this provides a summary of the essential process components. The primary purpose of posting these student assessments is to disseminate the "best practices" and "lessons learned" in each paper.

**Disclaimers:**

- The assessment reports reflect the student authors' opinions, and do not reflect the views or opinions of the University of Utah, any of its affiliated entities, or any individuals interviewed as part of the assessment.
- Unlike a conflict or situation assessment conducted by a professional third party neutral, the students' work does not include interviews of *all* stakeholder interests. While every attempt has been made to include the full range of perspectives in the analysis, it is possible that some perspectives have been omitted.
- The assessment reports are posted as they were written by the students (with some stylistic edits by EDR Program staff) and therefore reflect a snapshot-in-time. Facts and perspectives can change; for ongoing conflicts, the reader is encouraged to do additional research to confirm that the situation described in the assessment remains current.
- For questions about factual issues, the reader is encouraged to refer to underlying resource documents.

**Environmental Dispute Resolution Program**

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**The Washington County Lands Bill and Vision Dixie Collaboration:  
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**Introduction**

The Omnibus Public Land Management Act of 2009 Subtitle O, also known as the Washington County Lands Bill<sup>1</sup> (Lands Bill), is Utah’s darling: praised by academics, politicians, and community organizers for its grass-roots origins and balanced approach to conservation and development. *Vision Dixie*, the collaborative community planning process, was celebrated for being widely inclusive and highly effective. The legislation was acclaimed for protecting lands and rivers, addressing Wilderness issues, and allowing for future development.<sup>2</sup> Many hope both can be replicated within the state and across the West. This paper analyzes whether or not the Washington County community-based collaborative process and the Lands Bill<sup>3</sup> can and should serve as models.

This paper answers four general questions regarding the Lands Bill and Vision Dixie process. One, did they balance conservation and economic development?<sup>4</sup> Two, did they induce multi-agency collaboration? Three, did they adequately reflect and encourage community and non-profit involvement? Four, did they promote landscape-scale planning? These questions

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<sup>1</sup> Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, March 30, 2009, 123 Stat. 1075, Subtitle O, Sections 1971-83.

<sup>2</sup> Matt Canham, *Washington County Lands Bill May Be the Wilderness Model*, March 30, 2009, The Salt Lake Tribune.

<sup>3</sup> Any reference to “Lands Bill” in this paper is a reference to the Washington County Lands Bill. Any other use of “lands bill” is a general reference to federal legislation regarding federal lands.

<sup>4</sup> In an attempt to avoid using the clichéd term “sustainable,” this paper addresses the issue as balancing conservation and development.

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were intended to address the major policy, planning, and management issues affecting many communities and public lands agencies in Utah and the West.

This paper concludes that Vision Dixie and the Lands Bill equitably balanced conservation and development interests, and encouraged community involvement in land use planning. They did not, however, facilitate ongoing multi-agency collaboration nor directly promote landscape-scale planning. Most interviewees agreed and additional research supported their responses. The strengths and weaknesses, or the *value*, of the two processes as models are the basis for the conclusion and are presented in the next to last section.

There is limited published research on the Washington County Lands Bill. Peer-reviewed professional works include two law review articles published in 2008.<sup>5</sup> They primarily focus on improvements that could have been made to early drafts of the legislation and compare them to successful legislative models from Nevada. A Google search turns up a smattering of news, blogs, and magazine articles focused on political developments and the Lands Bill. This paper's contribution is an objective analysis of the collaborative processes, the legislation, and a recommendation on whether or not they should serve as models for other communities.

Analysis included traditional research and interviews with people directly involved with Vision Dixie, and to a lesser extent, the legislation. Interviewees also included impacted community members and public lands experts who may not have been directly involved with either process. Interviewees included officials from the Washington County Commission, the BLM, and the Forest Service, as well as members from Trout Unlimited and Citizens for Dixie's Future. None of the interviewees are directly quoted in this work unless it is from an existing

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<sup>5</sup> See Kai S. Anderson & Deborah Paulus-Jagric, *A New Land Initiative in Nevada*, 17 N.Y.U. Envtl. L.J. 398, 408 (2008); and Daniel Dansie, *The Washington Co. Growth and Conservation Act of 2006: Evaluating a New Paradigm in Legislated Land Exchanges*, 28 J. Land Resources & Envtl. L. 185, 213 (2008).

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public record like congressional testimony, journal article, or news source. Interviewees' responses have been intentionally anonymized and generalized and do not, therefore, reflect official positions of any agencies, government, or organization.

The paper provides a brief history of events leading up to the collaborative community process and an overview of the 2009 legislation. A similar lands bill for Owyhee County, Idaho provides a contrasting example. The background and objective information provides the foundation for the analysis at the end of the paper.

## **I. Background**

Washington County faced a complicated and quintessentially *Western* conflict in the 1990s and early 2000s. Rapid and unrestrained growth, a shortage of privately developable lands,<sup>6</sup> and a rising tide of conservation interests pitted community members against their political leaders, local representatives against state and national leaders, and the state and local interests against federal public land agencies. The battle was the same that *public lands states* seem to continually face: development vs. conservation, private land rights vs. public rights on public lands, aesthetics vs. economics, and old vs. new. Washington County exemplifies this conflict because all the instigating factors were amplified—growth was explosive and unprecedented, several federal agencies with competing management demands were responsible for the majority of lands, and local leaders were unaware of the latent conservation interests within their community.

### **A. Rapid Population Growth and the 2006 Growth Act**

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<sup>6</sup> In 2007, the land ownership in Washington County was: 74.7% federal, 5.7% state, 1.8% Native American, and 17.7% private and local government. Source: Utah Association of Counties 2008 Fact Book, *available at* <http://www.fluid-studio.net/uac/wp-content/uploads/2011/01/2008FactBook.pdf>.

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Rapid growth in Washington County was a primary factor leading to the Lands Bill. During the 1990s and into the 2000s, Washington County was one of the fastest growing counties in the nation.<sup>7</sup> Growth consisted primarily in retirees and emigrants who sought a beautiful, and relatively quiet, backwater of the Southwest. In response to these new citizens' needs, the service and construction sector demographics also expanded.

This rapid growth changed the community's character and outpaced existing community and county plans.<sup>8</sup> What had previously been a relatively sleepy, agriculture-based backwater of southern Utah became a predominant retirement and recreation destination. Farmland gave way to subdivisions, Spanish-tiled roofs spread across the landscape, and pavement covered the dusty country roads that meandered into the surrounding desert.

Transportation routes became increasingly congested and housing developments pressed against surrounding federal lands. For example, along the City of St. George's northern edge was the Red Cliffs Desert Federal Reserve—which was created in 1996 through the Washington County Habitat Conservation Plan (HCP) to protect the endangered Desert tortoise.<sup>9</sup> In addition to the HCP, approximately 40 percent, 27 percent, and 9 percent of lands within the County were then managed by the Bureau of Land Management (BLM), Forest Service, and National Park Service, respectively.<sup>10</sup>

Rapid growth and land ownership constraints spurred local officials to seek manageable solutions like Envision Utah's voluntary, locally-implemented, market-based ones. However, initially, the County Commission resisted trying the Envision process possibly because it

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<sup>7</sup> According to the Census Bureau, population in Washington Co. numbered 138,115 in 2010, 90354 in 2000, 48560 in 1990, and 26065 in 1980. See <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

<sup>8</sup> The content, or existence, of a county master plan in the 1990s and 2000s is not known. This topic requires further research.

<sup>9</sup> For more information on the Reserve, see <http://www.redcliffsdesertreserve.com/>.

<sup>10</sup> See [http://www.blm.gov/ut/st/en/fo/st\\_george/more/overview.html#land](http://www.blm.gov/ut/st/en/fo/st_george/more/overview.html#land).

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appeared to be a *big city* method for solving *big city* problems. Washington County was not Salt Lake County, after all, and *one size does not fit all*.<sup>11</sup> While the County eventually embraced it, their initial hesitation is worth noting.

There are conflicting accounts of exactly how the Commission went about crafting the initial lands bill. The County has argued that they gathered community input through a collaborative process and then worked openly with their congressional delegation to sponsor a lands bill.<sup>12</sup> The bill, sponsored by then Utah Senator Bob Bennett and Utah Congressman Jim Matheson, was introduced in the summer of 2006 with the title “Washington County Growth and Conservation Act of 2006” (the Growth Act). This Growth Act closely resembled several lands bills from Nevada that had successfully passed through Congress in the 1990s and early 2000s.<sup>13</sup>

Another interpretation, put forward by some conservation groups, is that the Growth Act was a closed-door deal that would be a windfall for private developers. It mandated 24,300 acres of BLM-managed lands be disposed (sold into private hands),<sup>14</sup> with only a marginal expansion of Wilderness and other land conservation measures. Also, in contrast to claims by the Commission and the congressional delegation, some environmental groups argued that the bill in no way reflected an inclusive collaborative effort.<sup>15</sup> The Growth Act was designed to appear like

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<sup>11</sup> *One size doesn't fit all* is a common refrain employed by States' rights advocates. See e.g. <http://www.durangoherald.com/article/20120417/NEWS01/704179926/1001/Did-you-win/Rebellion-dies--Bid-for-state-takeover-of-federal-land-fails>

<sup>12</sup> *Hearing on H.R. 5763 Before the H.Comm. on Resources, Subcommittee on Forests and Forest Health*, 109th Cong. (2006) (statement of Alan Gardner, Washington Co. Commissioner), *found at* Forest and Wilderness Bills, 2006 WL 2678342.

<sup>13</sup> Daniel Dansie, *The Washington Co. Growth and Conservation Act of 2006: Evaluating a New Paradigm in Legislated Land Exchanges*, 28 J. Land Resources & Env'tl. L. 185, 213 (2008).

<sup>14</sup> Citizens for Dixie's Future, *Land Use*, available at <http://citizensfordixie.org/land-use/> (visited March 9, 2013). For text of the bill see <http://www.gpo.gov/fdsys/pkg/BILLS-109hr5769ih/pdf/BILLS-109hr5769ih.pdf>.

<sup>15</sup> See a Deseret News article published on Sept. 15 2006 at <http://www.deseretnews.com/article/645201763/Dixie-growth-act-gets-hearing-in-Congress.html>.

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the Nevada lands bills in order to get through Congress, but instead of balancing conservation and development interests, it appeared to tip too heavily in favor of development.

To conservationists, the bill would allow more unrestrained growth and environmental destruction. However, the acreage is consistent with, and in some cases, far less than the amount of land slated for disposal under several Nevada bills.<sup>16</sup> Also, the Growth Act would have designated 95,980 acres of brand new Wilderness, and 123,743 acres of Wilderness overlaying protections in Zion National Park.

The Growth Act died in committee. Its legacy lived on in the controversy and criticism sparked back in Utah and across the country.<sup>17</sup> It angered environmentalists because it appeared too favorable to development and it angered some local citizens because it appeared to be an opaque, closed-door deal. Thus, in response to continued growth, failure of the Growth Act, and rising criticism from conservation groups, the County Commission reversed course and invited Envision Utah to bring their collaborative toolbox to Washington County..

In September 2006, the Washington County Commission announced that it would convene a comprehensive collaborative planning effort.<sup>18</sup> Envision Utah was invited to assist but the process was to be locally-led, locally-focused, and completed regardless of any legislation Congress might pass. Envision Utah had recently guided several Wasatch Front communities through a collaborative community planning process and offered their planning tool-box to

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<sup>16</sup> For example, the Lincoln County Conservation, Recreation, and Development Act of 2004 directed “prompt completion of the Mesquite land sales (about 13,000 acres) and directed annual auctions of up to a cumulative total of 90,000 acres;” the Clark County Conservation of Public Land and Natural Resources Act of 2002 expanded the “land disposal boundary to allow for development of 20,000 more acres within the Las Vegas Valley.” See Kai S. Anderson & Deborah Paulus-Jagric, *A New Land Initiative in Nevada*, 17 N.Y.U. Envtl. L.J. 398, 410-414 (2008).

<sup>17</sup> Dansie, *supra* note 13, at 185-86. For the procedural history of the bill see <https://www.govtrack.us/congress/bills/109/hr5769>.

<sup>18</sup> *Hearing on H.R. 5763 Before the H.Comm. on Resources, Subcommittee on Forests and Forest Health*, 109th Cong. (2006) (statement of Alan Gardner, Washington Co. Commissioner), *found at* Forest and Wilderness Bills, 2006 WL 2678342.



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Washington County. Although the strategies and methodology had been used in more urban—and politically liberal—Wasatch Front, the Commission believed it could fit their needs and lay the foundation for a new vision for the county—and hopefully, a lands bill.

**B. Vision Dixie**

The Commission initiated the collaborative planning process under the title “Vision Dixie.”<sup>19</sup> According to Commissioner James Eardley, the group’s main purpose was to have a “county-wide conversation that [would] provide opportunities for the public to make informed recommendations” for the county’s future.<sup>20</sup> It was “an outgrowth” of the failed Growth Act and the Commission hoped Vision Dixie would help county residents “find areas of common interest and guide decisions on public land disposal, should [a lands] bill pass.”<sup>21</sup>

Commissioner Alan Gardner claimed in congressional committee testimony regarding the Growth Act that Vision Dixie was a seamless extension of an existing collaborative process—an intensive “good faith” collaboration among a “broad-based” working group—which included conservationists, widespread public participation and review, mapping workshops, and field trips.<sup>22</sup> He basically said that an existing cooperative process had directly led to the Growth Act, and Vision Dixie would be a continuation and extension of that process.

According to some interviewees, and considering the public backlash to the proposed Growth Act, there does not appear to have been widespread participation in a transparent

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<sup>19</sup> The name “Dixie” is associated with this region of Utah because early Mormon pioneers to the area sought to import cotton agriculture. Despite the negative connotations associated with the term, the community continues to embrace the pioneer romanticism underlying the name. See, for example, <http://www.sltrib.com/sltrib/news/55592202-78/dixie-scheduled-college-george.html.csp>, for a recent news story about 83% of the community supporting the decision to retain the name “Dixie” State College.

<sup>20</sup> See <http://www.visiondixie.org/history/intro/>.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

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collaborative process prior to Vision Dixie. It seems, rather, that Vision Dixie was the first full-fledged attempt at an inclusive, collaborative process.

Although the Commission claimed that a new, revised lands bill was not necessarily the purpose of Vision Dixie, the process proceeded under the shadow of impending legislation. Another interviewee similarly claimed that Vision Dixie and the legislation were entirely separate projects with different purposes and goals. However, it would be unreasonable to conclude that a collaborative process designed to bolster consensus on the County's future—especially with regards to land use—and initiated by those that proposed and were criticized for the Growth Act (the Commission), was not tied to ongoing revisions of a lands bill. Only a lands bill could mandate the BLM dispose of significant acreage for development and could designate more Wilderness;<sup>23</sup> despite this, all parties were willing to come to the table.

Envision Utah had successfully guided communities through collaborative processes in the late 1990s and early 2000s. It was successful because it empowered local stakeholders, was built from the ground up, and it could be tailored to communities' unique needs and expectations.

The Envision strategy constituted Vision Dixie's structure; it was used to identify, preserve, and promote local community values in an environment of growth and evolving community dynamics.<sup>24</sup> A steering committee organized and led Vision Dixie. County Commissioner Eardley was the convenor and Chair. According to one interviewee, the Commissioner had been a community leader for some time and his political and social interests were well established and known to the Vision Dixie participants.

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<sup>23</sup> According to the County Commission, the "Wilderness issue" was *the* issue they hoped to solve, permanently, through a lands bill.

<sup>24</sup> Envision Utah, *About Envision Utah*, [http://www.envisionutah.org/eu\\_about\\_eumission.html](http://www.envisionutah.org/eu_about_eumission.html) (visited March 9, 2013)

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The steering committee included private citizens, representatives from local municipal and county government, water districts, the State of Utah, BLM, environmental conservation groups, consultants, higher education institutions, private business, housing development associations and businesses, as well as a representative from Congressman Jim Matheson's Office. Notably, there were no steering committee members from two of the three large federal agencies managing land in Washington County: the Forest Service and the National Park Service.

Vision Dixie's initial stages consisted of open community meetings and workshops. Beginning in October 2006 and continuing through the fall, over 1,200 residents attended at least one of 13 workshops. Input from the workshops was combined with technical guidance from local planners to create four theoretical scenarios for the county's future. There was a baseline scenario (based on existing municipal general plans) and three alternatives which emphasized, in different ways, several factors affecting the community including: traffic congestion, travel time, air pollution, developed versus undeveloped land areas, impacts on farms, open lands and critical environmental areas, water usage, cost of local infrastructure, and housing/zoning types. Each scenario depicted a different future based on development patterns, outdoor recreational opportunities, and transportation.<sup>25</sup>

The steering committee presented the scenarios to the general community at meetings in May and June 2007. More than 500 people attended and identified the aspects of the various scenarios they preferred or disfavored. An additional 800 residents did the same online, and copies of the scenarios were made available in various government buildings. In June 2007, a

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<sup>25</sup> *Vision Dixie 2035: Land-Use & Transportation Vision*, available at <http://content.lib.utah.edu/cdm/ref/collection/FHWA/id/6318>.

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polling firm also contacted 400 representative residents for their opinions on the factors weighed in the scenarios.<sup>26</sup>

The steering committee collected the public input and crafted 10 “Vision Dixie Principles” to represent the community’s core interests and values. The principles’ purpose is was to guide elected officials and local residents in major decision-making involving, for example, general plans, zoning, and development proposals. However, as the final report made clear, local governments retain control over their planning processes and each individual city and town<sup>27</sup> has discretion on precisely how to implement the principles.<sup>28</sup> In other words, there are no concrete enforcement mechanisms.

The steering committee issued the final report for Vision Dixie in January 2008, just over one year after it began. To implement the report, the steering committee established a 16 member *executive* committee including representatives from: Washington County Commission, the State of Utah, consultants, municipalities, environmental conservationists, BLM, as well as higher education and financial institutions.

Presumably, during the entire Vision Dixie process the County Commission was working with the congressional delegation to craft another version of the Growth Act. Just 14 months after the Vision Dixie final report, Congress passed the Omnibus Bill that included a revised version of the Growth Act— what we know today as the Washington County Lands Bill.

## **II. The Legislation**

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<sup>26</sup> *Id.*

<sup>27</sup> There are 21 cities and towns in Washington County, including unincorporated towns.

<sup>28</sup> *Vision Dixie 2035: Land-Use & Transportation Vision*, available at <http://content.lib.utah.edu/cdm/ref/collection/FHWA/id/6318>

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The Washington County Lands Bill passed in the Omnibus Public Land Management Act of 2009.<sup>29</sup> It was one of many bills in the Omnibus that designated Wilderness and allocated federal lands for various purposes. The Omnibus also initiated the National Landscape Conservation System (NLCS)—a new layer of conservation-centered management practices for federal public lands.<sup>30</sup>

The Lands Bill was mostly a revised version of the failed Growth Act. Many of the same components appear in both bills and it is only the amount of acreage that changed. A direct comparison of the numbers is included below, but in general, the Lands Bill has more Wilderness acres, more National Conservation Areas (NCA), and the same number of Wild and Scenic miles. There is no specific number of BLM acres mandated for disposal.

Vision Dixie must have influenced the Lands Bill because the community's conservation interests were an unprecedented presence and force during the process and led to the inclusion of more acres for conservation in the final Lands Bill. Even if Vision Dixie participants did not directly influence the numbers in the legislation, there must have been behind-the-scenes negotiations between the Utah Delegation and conservation-minded political players.

The channels of communication and the players involved in shifting the legislation towards more conservation are not clear. Interviewees seemed to agree that Vision Dixie laid a foundation to propose, pass, and implement a new lands bill, but the *processes* were distinct and separate. There was Vision Dixie, and there was the legislative process.

Presumably, the Commission worked closely with their Delegation throughout the process while the delegation must have been playing the political dance with other congressional

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<sup>29</sup> Omnibus Public Land Management Act of 2009, PL 111-11, March 30, 2009.

<sup>30</sup> The NLCS program may have ongoing significance for two National Conservation Areas in Washington County. However, this new program—NLCS—and the Lands Bill were two entirely separate pieces of legislation that passed along with many other bills in the Omnibus.

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legislators, most of whom were concerned with the exact numbers in the Washington County bill. The complicated political maneuvers behind such a large Omnibus bill would have almost certainly obscured minor negotiations over this-or-that acre of proposed Wilderness.

The divide between local, community-focused processes and congressional legislating is a critical variable in the whole lands bill process. Communities must have faith in their political leaders to adequately represent their interests. At the same time, political deals, behind-the-scenes agreements, and congressional bickering do not include or account for local concerns. Any western community seeking to address land use management should prepare for this divide.

There are, nonetheless, several clear and concrete aspects of the Lands Bill that serve as basis of comparison and as measures of success. First, the bill was based on model legislation developed by the Nevada congressional delegation. Second, it designated areas for conservation, encouraged BLM to dispose of public lands, and directed the agency to develop a comprehensive travel management plan.

**A. The Nevada Lands Bill Model**

Like many western states, Nevada faces recurring conflicts over development, conservation, and multiple-use of public lands. In Nevada, these conflicts are exacerbated by the high percentage of federally managed lands—approximately 85%. In Utah approximately 70% of the land is federally managed. To help resolve these conflicts to varying success, Nevada political leaders pursued various mechanisms to convey federal land into private ownership. These processes are often slow and frustrating, and can present opportunities for social backlash on federal control. These eruptions are commonly known as the “Sagebrush Rebellion.”<sup>31</sup>

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<sup>31</sup> John D. Leshy, *Unraveling the Sagebrush Rebellion: Law, Politics and Federal Lands*, 14 U.C. Davis L. Rev. 317, 320 (1980).

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In the late 1990s, the Nevada congressional delegation gained some traction on the process of moving federal lands into private ownership. For example, the Southern Nevada Public Land Management Act of 1998 (SNPLMA)<sup>32</sup> ramped up the transfer of BLM lands to private ownership. It allowed the BLM to expeditiously sell valuable parcels in Clark County, and use the majority of the proceeds to purchase and preserve lands around Lake Tahoe. SNPLMA was a balancing mechanism that allowed some development to proceed while providing other areas greater protection as open space.

In the 107th Congress, the Nevada delegation introduced what would become the standard—the Clark County Public Lands bill. This bill resulted from a public input process and cooperation among the congressional delegation, aimed at balancing conservation, recreation, and development with holistic legislation.<sup>33</sup> According to Senator Reid’s Office, the “legislation released wilderness study areas to enhance economic opportunities in Clark County while adding 440,000 acres to the national wilderness system.”<sup>34</sup> This public input process and cooperative legislative crafting became routine with bills passing in the 107<sup>th</sup>, 108<sup>th</sup>, and 109<sup>th</sup> Congresses.<sup>35</sup>

The Nevada bills were not carbon copies but they shared many similarities in terms of on-the-ground products and the processes leading to legislation. For example, they directed the BLM to dispose of lands for private development and municipal purposes, as well as crafted travel management plans including those for off-highway vehicle (OHV) activity, and they protected lands with various designations including Wilderness and National Conservation Areas.

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<sup>32</sup> <http://www.blm.gov/pgdata/content/nv/en/snplma.html>.

<sup>33</sup> *Supra* note 5 at 408.

<sup>34</sup> <http://www.reid.senate.gov/nevada/Clark-County.cfm>.

<sup>35</sup> *Supra* note 5 at 406.

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Scholars have attributed the Nevada bills' success to three things: "First, local, state, and national leaders identified timely passage of legislation to address specific local issues as a high priority need. Second, the congressional sponsors committed to represent all stakeholders in an inclusive public process marked by bicameral, bipartisan public and private negotiations with the goal of achieving comprehensive solutions. [Third], the availability of a substantial source of federal monies in the form of the SNPLMA Special Account helped convince various stakeholders that promises made in negotiations could and would be kept."<sup>36</sup> In other words, leaders acted with urgency, legislators collaborated with each other and stakeholders to develop a comprehensive bill, and federal money bolstered promises from the political leaders.

However, early versions of the Growth Act failed to satisfy this formula. Before Vision Dixie, mutual suspicion and distrust among stakeholders, and staunch opposition from the environmental community meant a lands bill was almost destined to fail.<sup>37</sup> In Utah, environmentalists have traditionally had little confidence in their political leaders. Also, at least stakeholders in Washington County had become heavily entrenched and unable to cooperate. By contrast, in Nevada environmentalists trusted Senator Reid to represent their interests, and the congressional delegation was able to cultivate cooperation at both the local and national levels.

**B. The Black and White of the Washington County Lands Bill**

The Lands Bill included a host of designations and directives. It permanently conserved lands and rivers, it directed the BLM to conduct transportation management planning and dispose of BLM lands, and it conveyed federal lands for public purposes. Below are descriptions

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<sup>36</sup> *Supra* note 5 at 417.

<sup>37</sup> *Supra* note 5 at 420.



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of the Lands Bill's notable elements and a hyperlink to text of the legislation is included at the end of this piece.

### **Conservation Lands and Rivers**

The Lands Bill designated new Wilderness, overlaid Wilderness on parts of Zion National Park, designated stretches of Wild and Scenic Rivers, and created two new National Conservation Areas (NCAs).

- New Wilderness: 131932 acres (an addition of 35952 acres over the Growth Act numbers)
- Wilderness overlay on NPS lands: 124406 acres (an addition of 663 acres over the Growth Act numbers)
- Red Cliffs National Conservation Area: 44725 acres (a *deduction* of 16748 acres compared to the Growth Act)
- Beaver Dam Wash National Conservation Area: 68083 acres (not included in the Growth Act)
- 165.5 miles of Wild and Scenic designation for segments and tributaries of the Virgin River (no change from the Growth Act numbers)

Wilderness designations are well-documented and will not be addressed in detail here.

The NCAs, however, present more interesting and novel cases as the BLM is required to manage lands at a sort of intermediate level—more protective than standard public lands, but less protective than Wilderness. The Red Cliffs NCA is especially significant because it covers almost all of the land on the northern edge of the largest and fastest growing city in the county,

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St. George.<sup>38</sup> Unlike some of the remote Wilderness Areas in the County, this NCA represents the hard line between development and conservation.

The Red Cliffs and Beaver Dam Wash NCAs are two of sixteen NCAs throughout the west and Alaska managed by the BLM.<sup>39</sup> The NCA designation is an elevated management status over the standard BLM lands, but it is not as rigorous as the non-impairment management standard that attaches to Wilderness areas. The management purpose is to “conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of the National Conservation Area.”<sup>40</sup> This purpose applies to both NCAs.

The Red Cliffs NCA overlaps with two other more conservation-protective areas. The Red Cliffs NCA encompasses the Red Cliffs Desert Reserve<sup>41</sup> created in 1996 through a Habitat Conservation Plan (HCP) for the Threatened Mojave Desert Tortoise. It also overlaps with two new Wilderness areas created by the Lands Bill.

The Lands Bill mandates that the BLM, in consultation with state, tribal, and local governmental entities, develop a comprehensive plan for the long-term management of both NCAs by March 30, 2012.<sup>42</sup> The BLM did not meet the deadline; in fact, the plans are only in the earliest stages of development as of December 2013. This failure to meet not just a deadline, but to develop comprehensive plans in consultation with local and state entities is a significant problem that illustrates why more specific implementation measures should have been included in either Vision Dixie or the Lands Bill, or both.

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<sup>38</sup> For a map, *see*

[http://www.blm.gov/pgdata/etc/medialib/blm/ut/st\\_\\_george\\_fo/nlcs/maps.Par.24479.File.dat/RedCliffsNCA.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/ut/st__george_fo/nlcs/maps.Par.24479.File.dat/RedCliffsNCA.pdf)

<sup>39</sup> *See* [http://www.blm.gov/wo/st/en/prog/blm\\_special\\_areas/NLCS/National\\_Conservation\\_Areas.html](http://www.blm.gov/wo/st/en/prog/blm_special_areas/NLCS/National_Conservation_Areas.html)

<sup>40</sup> *Supra* note 1 at Sec. 1974.

<sup>41</sup> *See* <http://www.redcliffsdesertreserve.com/>.

<sup>42</sup> *Supra* note 1 at Sec. 1974(d).

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The Lands Bill also mandated several standard measures that accompany a conservation-centric management area. It withdrew lands within the NCA boundaries from location, entry, appropriation, patenting, mineral leasing, mineral materials, geothermal leasing, and disposal. Both NCAs can continue to be used for grazing but it will be subject to certain conditions and in accordance with the purposes of the NCAs. Only grazing rights established before March 30, 2009 will be permitted. The Lands Bill also mandated limitations on motorized vehicle travel in the NCAs which will be addressed in more detail in the next section.

**A Travel Management Plan and Northern Transportation Route**

The Lands Bill requires that within three years of passage, the BLM, in consultation with federal agencies, state, tribal, and local governments, “shall develop a comprehensive travel management plan for the land managed by the [BLM] in the County.”<sup>43</sup> Also, in developing the plan, “the Secretary shall—in consultation with appropriate Federal agencies, State, tribal, and local governmental entities . . . and the public, identify 1 or more alternatives for a northern transportation route in the County.”<sup>44</sup> The purpose of the plan is to provide for safe and orderly off-highway vehicle recreation and reduce conflict between competing uses.

The Lands Bill also requires that the BLM and Forest Service work together to establish an off-highway vehicle (OHV) trail system. Once established, the trails are to be monitored for negative impacts on natural and cultural resources and wildlife. The Secretaries of Interior and Agriculture have discretion to re-route and temporarily close trails as needed to protect resources.

**Disposal of BLM Land**

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<sup>43</sup> *Supra* note 1 at Sec. 1977(b).

<sup>44</sup> *Id.*

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The Lands Bill permits the BLM to dispose of land but does not mandate any specific number of acres. The relevant text is: “Consistent with applicable law, the Secretary of the Interior may sell public land located within Washington County, Utah, that, as of July 25, 2000, has been identified for disposal in appropriate resource management plans.”<sup>45</sup> In other words, it says the agency *may* do what it already had the power—under the Federal Land Policy and Management Act—and intention to do—as indicated by the Resource Management Plans. This contrasts with the Growth Act which would have mandated the agency to dispose of over 24,000 acres.

### **Public Purpose Conveyances and Tribal Land**

The Lands Bill conveyed, all together, 353 acres to the County and the cities of St. George and Hurricane. These lands are to be used for open space, expansion of the County jail, an equestrian park, recreation, and public administrative offices. The Lands Bill also conveyed 640 acres to the Shivwits Band of Paiute Indians.

### **III. A Contrasting Case From Owyhee County, Idaho**

The 2009 Omnibus Bill also included a lands bill for Owyhee County, ID.<sup>46</sup> In many ways this legislation mirrored Washington County’s. The Owyhee Bill designated over 500,000 acres of Wilderness, several hundred miles of Wild and Scenic Rivers, and directed the BLM to take specific management actions including transportation planning.

The community dynamics and the collaborative processes leading up to the Owyhee Bill sharply contrast Washington County’s. Specifically, the Owyhee collaboration process excluded the BLM—the one agency responsible for the majority of public land in the county.<sup>47</sup> This

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<sup>45</sup> *Supra* note 1 at Sec. 1978(a).

<sup>46</sup> *Supra* note 1 Subtitle F, sections 1501-08.

<sup>47</sup> There are no Forest Service or National Park lands in Owyhee County.

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happened, most likely, for two reasons: one, there was long-standing, deep mistrust between ranchers and the BLM, and two, President Clinton had just used his unilateral Antiquities Act power to designate the Grand Staircase-Escalante National Monument (GSENM).

The GSENM likely provoked fear that similar Monument designations would be enacted upon other rural ranching communities like Owyhee County. Presumably the community rallied their congressional delegation to prevent this. Fear and aversion to Monument designation is commonplace around the Intermountain West since the establishment of the GSENM. While conservationists generally favor designations, many community members—especially ranchers—do not.

Excluding the BLM from the process would prove problematic in the Owyhee case. The BLM is bound by federal laws and regulations when it makes decisions and manages public land. According to one interviewee, several agreements made among the members who were present and some small elements of the legislation did not recognize these legal and regulatory requirements. As a result, after the legislation passed, some community members were surprised to find that their expectations could not be met by the laws and regulations that bind the BLM. If the BLM had been present from the beginning these issues may have been avoided.

There is lingering tension between the BLM and the Owyhee community. The implementing group—the *Owyhee Initiative*—does not list the BLM as one of their supporters, nor are they included on the Board of Directors.<sup>48</sup> Also, Rep. Bishop of Utah hosted a congressional hearing in late 2013 titled “Threats, Intimidation and Bullying by Federal Land Managing Agencies,” in which Owyhee County ranchers recounted stories of intimidation by the BLM. The hearing’s title suggests ongoing conflict.

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<sup>48</sup> See <http://www.owyheeinitiative.org/resources.htm>. Website last visited on 4/18/14.

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An Idaho Statesman article claimed that stories told at the hearing were old news and not indicative of current community relations.<sup>49</sup> Nonetheless, the hearing itself reflects ongoing mistrust between political leaders—especially states’ rights advocates—and federal public lands agencies. Two of the conclusions in this paper are that political leadership and positive individual attitudes are critical to successful collaborations. Rep. Bishop’s hearing undercut these facts.

According to one interviewee, poor relations prior to 2009 have improved. The Owyhee Initiative’s organizers invited the BLM to the table a few weeks before the Omnibus Bill passed and since then the agency has actively participated with the group. In general, the legislation forced the ranching community, environmentalists, and the BLM to come together and this in-and-of-itself ameliorated some long-standing mistrust.

The Owyhee example is useful because it demonstrates that sufficient political will can produce a lands bill. Inclusive collaboration is not critical. In Washington County the process was largely inclusive from the beginning. Its passage is sometimes attributed to this fact, but Owyhee County demonstrates that legislation is its own animal and, for better or worse, any county can have a lands bill if their delegation has enough influence. For this reason legislation should not be the favored tool for solving local land use conflicts.

Lands bills can gloss over underlying conflicts and perpetuate mistrust. Also, legislation does not always reflect the legal and regulatory realities of public lands management. Only through collaboration and the right attitudes of land managers, County Commissioners, and other local decision-makers can communities expect to make progress on these seemingly endless western conflicts.

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<sup>49</sup> <http://www.idahostatesman.com/2013/11/04/2850110/old-stories-miss-collaborations.html>

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**IV. Strengths and Weaknesses**

The Washington County Lands Bill effectively settled at least one long-standing conflict: the Wilderness issue. More generally, the community can proceed with durable certainty about future land use. Decision-makers should expect less resistance to several development issues and conservation groups can feel secure in the Wilderness, National Conservation Area, and Wild and Scenic designations. Finally, Vision Dixie brought a changed community together and laid the foundation for future collaboration.

However, neither the Lands Bill nor Vision Dixie solved all the community's problems. The BLM has not yet completed several planning processes that will have major impacts on transportation corridors, recreation, land disposal, and conservation. While there will be no more Wilderness, Areas of Critical Environmental Concern (ACEC) designations loom over some of the County's interests. Also, relations between environmentalists, the County, developers, and federal agencies have improved, but remain at odds over several issues like transportation corridors. Although it is not yet clear, there is a risk that a lack of concrete implementation measures will undermine Vision Dixie's momentum.

- **Strength: Deliver Long-Term, Durable Certainty**

The Lands Bill and Vision Dixie produced durable, long-term certainty on several important issues. Securing certainty is important to political leaders, conservationists, businesses, and land use planners. In this way it is an *interest*, shared by effectively all the parties in Washington County because uncertainty inhibits economic development, puts valuable habitat and open space at risk, and fuels conflict.

Certainty can be represented concretely. For example, the Lands Bill drew definitive lines on the map that represents specific and relatively static land management standards for the

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foreseeable future. Only Congress can draw many of these lines and this is one of the Lands Bill's strong points. Because of the Lands Bill, there is substantially more Wilderness. At the same time, those interested in securing more land for other uses can be confident that there will likely never be more Wilderness designated in Washington County.

Securing certainty is effectively equivalent to minimizing risk. Community leaders seek low-risk opportunities for capital investment, conservationists want to minimize the risk that their favored lands will be degraded, and public land management agencies aim to minimize the risk of litigation.

Long-term certainty is most secure when all stakeholders have an opportunity to express their interests to a receptive decision-making body. These interests need to be at least nominally reflected in the final product. Long-term certainty is less secure when the lines are drawn by unilateral authoritative action, like designating Monuments under the Antiquities Act. Although Monuments give some parties long term certainty—conservationists—they can likely exacerbate existing conflicts if they do not reflect all the interests involved.

With that said, it does not seem necessary that every interest is *directly* reflected in the final product. Rather, all that is necessary is that each interested party feels they had a part to play and they made their voice heard. This conclusion is not in line with several collaboration and consensus theories. However, reasonable people are willing to overlook omissions—e.g. the Lands Bill does not include every legitimate interest put forward during the collaboration—when they feel that they had a fair role in a just process.

Some interviewees expressed concern that certainty had not been achieved on several important issues including transportation and restrictive conservation measures, like ACECs. However, compromise was essential to complete the legislative process. Also, it is unlikely that



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Congress will ever mandate “hard release” language and undermine federal public land agencies’ discretion. That is, Congress will most likely not mandate that the BLM refrain from designating ACECs in such a large area as Washington County.

In sum, pairing an inclusive, collaborative, and detailed planning process with legislation is an effective way to secure durable, long-term certainty. Washington County did this with Vision Dixie and the Lands Bill. There are drawbacks which will be addressed below, but this was certainly one of Washington County’s strengths.

- **Strength: Provide Political Cover**

Vision Dixie and the Lands Bill provided political cover to local, state, and national political leaders. Interviewees indicated that prior to Vision Dixie there was resistance at the County level to involve the public in land deals and planning. This resistance could be attributed to long-standing and deep seated views about what Washington County *is* and how it ought to be run, combined with limited turnover in county leadership positions. Also, similar to rural counties around the West, Washington County resisted any importation of “big-city methods,” like those employed by the Wasatch Front.

By using Envision Utah’s methodology and opening the doors to all community members, the Vision Dixie process marked a change in Washington County. With an influx of new community members and evolving concerns, the process shined light on conservation interests which had not previously had political force in the county. Additionally, Vision Dixie brought thousands of community members to the table and as a result gave them a sense of legitimacy and influence. This inclusivity was integral to the forward momentum of Vision Dixie and its implementation.

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Elected officials in any county experiencing growth and development are forced to make a number of decisions that have lasting effects and the potential to polarize their community. However, when the community feels that they are permitted to contribute meaningfully, and when they sense that their officials are adequately sensitive to their interests, leaders are provided greater leeway in making hard decisions. Even though parts of the community disagreed with the political or land use views of their representatives, Vision Dixie created breathing room for those officials to carry out their duties because the collaboration led to a more mutual understanding which reduced, for at least a short time, the threat of litigation and other obstacles. This political cover can at the same time be a source of dissatisfaction if it seems to be stretched too far. That possibility is addressed in the lessons learned section.

- **Strength: Protect Ecologically and Aesthetically Valuable Lands and Rivers**

An obvious, general strength of legislation is that it can create legally enforceable and highly durable conservation measures-- both in terms of management standards and over time, once Wilderness, probably always a Wilderness. The Lands Bill designated Wilderness, Wild and Scenic Rivers, and two NCAs out of thousands of acres that were under multiple-use or other less-than-protective management standards. This is significant for many reasons. Conservation lands are aesthetically pleasing, important for sustaining ecological systems, and encourage tourism, which could be the one most sustainable economic driver for the rural west.

Tourists, retirees, and local visitors can be assured that many of the most stunning vistas and landscapes will remain untrammled in Washington County. Additionally, when irrigable land—which is in short supply—is replaced by subdivisions and second homes, tourism becomes a major economic engine for places like Washington County. Tourism does have different forms that are not always congruent—OHV, hiking, mountain biking, drive-through sightseeing, and so

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on—and so preserving lands as Wilderness or a National Conservation Area is not *always* a draw for *all* tourists. Nonetheless, the Lands Bill represents a fairly balanced approach to these different ways of experiencing public lands.

- **Strength: Aid Community Development**

The Lands Bill aided community development by transferring public lands to several municipalities through Public Purposes Conveyances, essentially free of cost. The beneficiaries include the Temple Quarry, Hurricane City Sports Park, Washington County Public School District, Washington County Jail, and the Hurricane Equestrian Park. Public Purposes Conveyances are a great benefit to communities that are surrounded by federal public lands. Conveyances like that in the Lands Bill are much more streamlined and immediate than other disposal mechanisms and land swaps. Confrontational tactics that the Sagebrush Rebellion-type groups employ are unlikely to ever have widespread success or support. Legislation based on collaborative agreements is much more likely to be repeated and serves rural communities better than adversarial demands.

- **Strength: Provide Land for Tribes**

The Lands Bill conveyed 640 acres of BLM land to the Shivwits Band of Paiute Indians. The research for this paper did not uncover the background to this transfer and therefore, it cannot be addressed in any detail. Whatever the case was, without Congress, this type of transfers cannot occur.

- **Weakness: Implementation Mechanisms and Accountability**

Vision Dixie is predominantly an abstract representation of the community's values. It is not a concrete plan and it does not include enforceable standards, backstops, performance measures, or obligations. Political leaders are not bound to follow the Vision Dixie principles in

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their decision-making. The draftors of the final report made it clear that each community reserves the right to use it at their discretion. Community members can only appeal to their leaders through the usual channels and have only the same political remedies they had before the Vision Dixie process.

Vision Dixie distilled an executive committee from the larger steering committee and they were the *de facto* implementing body for Vision Dixie. However, this committee no longer meets on a regular basis, nor are they required to. Neither Vision Dixie nor the Lands Bills changed the *status quo* of authority or local decision-making. It was simply an expression of the community's interests and values. The executive committee has no authority to hold any decision-maker accountable. There are no accountability measures of any kind in the Vision Dixie final report. For the conservation interests this has become a major weakness of the collaboration.

Discretion to implement the final document is a double-edged sword. On the one hand, reserving discretion to decision-makers within each municipality is good because decisions can be based on their community's unique needs. Many interviewees agreed on this point, reflecting a highly valued principle in the rural West: independence. On the other hand, decision-makers are at risk of employing too much political cover from Vision Dixie. Some conservation interests expressed concern that decision-makers could backtrack on their promises or merely pay lip service to the Vision Dixie principles. While there is no concrete evidence that this is taking place, including enforceable measures is an opportunity for improvement.

The Lands Bill imposes legal requirements on federal agencies but they mostly derive from existing laws and regulations. For the most part, it adjusted jurisdictional boundaries; it did not impose accountability or implementation obligations. For example, unlike the proposed

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Growth Act, the Lands Bill does not require the BLM to dispose of land within a specific time period. It does impose some planning requirements but the language was not as direct as the County had hoped. Additionally, the BLM has failed to meet some of these deadlines including those that will have significant impacts on travel management, recreation, and enhanced conservation designations like ACEC. These pending decisions are highly important to both the conservation interests and the County.

The Resource Management Plans for the two NCAs were to be developed within three years—March 2013—but they are still in the early stages of development as of early 2014. Also, the BLM continues to have discretion to designate ACECs essentially anywhere. Although this has not happened, nor has the BLM made any official indications that it will, the County is concerned that ACECs will become de facto Wilderness areas. For this reason they believe the Wilderness issue is not permanently resolved in Washington County.

The County had hoped for *hard release* language in the Lands Bill. This language refers to explicit congressional edicts that agencies have no discretion to manage lands in a certain geographic area as de facto Wilderness or as suitable for future Wilderness designation—it *releases* the lands to other uses that may impair Wilderness qualities. This is an issue where the legislation could have imposed more concrete obligations. However, all the interviewees who commented on this issue agreed that *hard release* language was unlikely to be included in these types of lands bills.

In contrast to Washington County, Owyhee County, Idaho does have a strong implementing group. The group is called the Owyhee Initiative and it meets regularly to handle the ongoing issues arising from their lands bill and other public lands issues. One interviewee noted, the continuous commitment from all the members greatly improved relations among

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ranchers, conservationists, and the BLM. It has also facilitated the resolution of many issues that arose prior to the lands bill and were sticking points in the implementation phase.

Both in Washington and Owyhee Counties, many parties expected the lands bills and community collaborations would translate directly into BLM management decisions. Some of these expectations were misguided because most BLM management processes are inflexibly determined by law and agency regulations. BLM transportation planning in Washington County is the obvious example of this miscommunication and it will be addressed next.

Imposing concrete implementation and accountability obligations is best left to individual communities rather than Congress. There are fraught Constitutional issues with Congress telling small communities what to do; rural Western communities typically despise “Federal encroachment,” on their rights. Additionally, the subtleties of community planning require local knowledge.

Community collaborations should acknowledge this “weakness” and not expect lands bills to force a federal agency to take specific actions. Similarly, if communities expect local leaders to do something, they should demand concrete obligations and hold them accountable *before* the collaboration process loses momentum. For example, communities could take the Vision-type recommendations and demand that the county and municipalities immediately incorporate them into zoning regulations and decision-making guidelines. Also, as evidenced by Owyhee County, ongoing commitment from local citizens to implement a plan is critical.

- **Weakness: Unresolved Issues With the Northern Transportation Route and Travel Management Plan**

The Lands Bill requires that “the Secretary shall—in consultation with appropriate Federal agencies, State, tribal, and local governmental entities . . . and the public, identify 1 or

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more alternatives for a northern transportation route in the County.”<sup>50</sup> The route—which may reduce traffic and air pollution near the City of St. George—was supposed to be included in a comprehensive BLM Travel Management Plan by March 30, 2012.<sup>51</sup> This, including its potential environmental impacts, is a major unresolved issue causing ongoing conflict in Washington County. It was an issue that Vision Dixie addressed but could not solve because it was beyond their authority, and Congress essentially kicked the can down the road.

The BLM is in a difficult situation because planning decisions must be made in coordination with State, Tribal and County officials. Also, BLM planning regulations are not congruent with the Lands Bill’s demands for a comprehensive transportation plan or a single route. That is, these types of planning decisions cannot be made independently of other, more comprehensive, BLM planning processes. As of 2014, the BLM was trying to address transportation planning in the two NCA Resource Management Plans (RMPs) and a new and revised St. George RMP. A free-standing transportation planning process seems to be infeasible, if not impossible.

The Lands Bill could have been more explicit: Congress used rather vague and non-committal language regarding this transportation planning. Their choice most likely reflects the gamesmanship and political wrangling that goes on with all legislation. There is no good way for communities to solve this and especially not when a lands bill is grouped into an Omnibus. Other communities should prepare for this by explicitly acknowledging the limitations of their and Congress’ authority.

- **Weakness: Discontinuity with the Legislative Process**

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<sup>50</sup> *Id.*

<sup>51</sup> *Supra* note 1 at Sec. 1977(b)(1).

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Congressional legislative processes have never been entirely transparent or accessible to the public. This is an unavoidable problem for local collaborative efforts that seek to memorialize their agreements with congressional action.

Several interviewees stated that Sen. Bennett’s staff came into the process, gathered information, “went down to the basement,” and cooked up the legislation without further input from those most involved in the original idea. Other communities should expect similar breaks in the legislative process—as it is not linear and not everyone gets to take part in every deal.

- **Weakness: No Guarantees of Political Leadership**

Political leadership is critical to legislation. Unfortunately, there are no guarantees that communities can rely on their political leaders to make collaborative agreements into law. Congress is the only entity that can turn federal public lands planning into law.

Several interviewees noted that Sen. Bennett’s willingness to stick his neck out on the Wilderness issue was absolutely essential to the Lands Bill. Utah politics have never favored Wilderness and he put his political career at risk for the sake of compromise and collaboration.<sup>52</sup> The Growth Act languished because environmentalists did not trust local, state, or congressional political leaders and they had enough political weight to stop the bill.<sup>53</sup> Thus, after Sen. Bennett and other political leaders recognized the environmental community’s interests and engaged in honest compromise—arguably the truest form of political leadership—the legislation progressed through the political process.

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<sup>52</sup> The one notable exception being the Cedar Mountain Wilderness Area, which was created by Utah politicians in order to thwart the Paiute Tribe’s efforts to locate a nuclear waste storage facility on their reservation.

<sup>53</sup> *Supra* note 5 at 420.



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In the following election, Sen. Bennett lost his seat to Mike Lee, a Tea Party candidate and Sagebrush Rebellion supporter.<sup>54</sup> Bennett's support for Wilderness presumably did not help him retain the seat; quite the opposite. Although Sen. Lee has advocated for more public lands legislation, his primary concern seems to be states' rights, and not Wilderness.

Wilderness and other conservation/preservation designations will likely be critical to any future lands bills. The environmental movement has made significant progress by using Wilderness as a bargaining chip and their tactics are unlikely to change in the near future. Moreover, because Congress failed to enact Wilderness legislation in the last session, environmentalists are probably anxious to see it included when and if Congress passes the next installment of public lands legislation.

If congressional leadership is a linchpin to these bills then the outlook in the near future is not good. At a time when the Sagebrush Rebellion is again rising up and Congress is not accomplishing anything, the prospect of another lands bill like Washington County's is remote. Political leadership cannot be guaranteed and communities should not unreasonably hope that their collaborative efforts will be memorialized by legislation.<sup>55</sup>

## **V. Conclusion**

Both Vision Dixie and the Lands Bill balanced conservation and economic development interests. Every interviewee mentioned some issues that did not go in their favor but this is inevitable in such large, inclusive, community collaborations. Collaboration means parties must yield and sacrifice some interests in order to be successful and come to a larger agreement. Conservation interests will not get every acre they want, development interests will not get *hard*

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<sup>54</sup> <http://www.standard.net/stories/2014/04/16/lee-sides-ranchers-nevada-blm-dispute>.

<sup>55</sup> *This paper does not address the Bishop Public Lands Initiative, which is ongoing as of March 2015.*

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*release* language, and federal agencies will inevitably be bound to existing laws and regulations. Given these constraints, the Lands Bill and Vision Dixie struck a good balance.

Lands bill legislation is complex and time consuming. Its passage is in itself a success. However, its balance of Wilderness, other conservation lands, and development potential is added benefit. Although some conflicts over conservation and development were left unresolved—like the northern transportation route—the Lands Bill was nonetheless a successful balance of interests. Other communities should indeed look to this Nevada-Utah model as an example on this point.

Despite these successes, neither Vision Dixie nor the Lands Bill facilitated long-term multi-agency collaboration. In the short-term, Vision Dixie did bring various agencies to the table and the Lands Bill requires federal agencies to work with local partners in future planning processes, but these examples are limited.

In public lands controversies there is often a gap between local community interests and what public lands agencies are legally permitted to do. Similarly, managers from different agencies may be amenable to collaboration but their authority and budgets are constrained. Interviewees noted that multi-agency collaboration always sounds like a good idea, but the reality is that multi-agency collaborative projects are low on the budget priority list. In a time of sequestration and other severe budget cuts, federal agencies are unlikely to pursue collaborative projects. Slim budgets force agencies to focus on their most essential operations—the programs for which only they are currently responsible.

The fact that federal agencies are unable or unwilling to collaborate with other federal agencies seems paradoxical because when money is tight it makes sense to share resources.

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However, public lands agencies have different management standards which has led to long-standing conflict between agencies.

Several interviewees noted that multi-agency collaboration and agency involvement in community collaborations ultimately depends on each manager's attitude. Many issues that arise from miscommunication or misunderstanding can be ameliorated through agency involvement. Therefore, a manager's willingness to engage with the community is critical.

Although there was limited multi-agency collaboration, Vision Dixie exemplified successful community and non-profit involvement in land use planning. Vision Dixie was a forum for everyone to share their interests. The workshops, meetings, and final report reflected wide spread involvement and provided a message to political leaders about the changing character and wishes of their communities. Although Vision-type processes could be improved with more concrete implementation and accountability measures, they are undeniably valuable processes for Western communities.

The Lands Bill, on the other hand, did not encourage open involvement from the community and non-profit groups. Most interviewees agreed that the legislative process was entirely separate and apart from the community collaboration. While Vision Dixie may have influenced the legislators, the two processes were independent and legislators seem to have only collaborated behind closed doors.

Vision Dixie and the Lands Bill promoted landscape-scale planning in some limited ways. Vision Dixie helped the community think about the big picture—the whole landscape of their County—and develop some tentative visions for preserving landscapes while also allowing for change and growth. For the public lands agencies, the NCAs, Wilderness, and Wild and

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Scenic designations settled questions about what to conserve and what to continue managing according to multiple use and sustained yield.

The Lands Bill, as expected, preserved management responsibilities among the various agencies, preserving distinct lines demarcating BLM, Forest Service, and Parks. In this way it did not do as much as some future lands bills may. Although the 2009 Omnibus Bill initiated the National Landscape Conservation System, Congress has yet to really embrace ideas that would facilitate cross-jurisdiction, landscape-scale planning. While the Washington County Lands Bill did not set out to change this, other communities should consider if this is possible.

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**Takeaway for Public Lands Managers:**

The following are a list of simple and somewhat obvious tactics for lands managers to make the most of community collaborations and lands bill legislation, ameliorating recurring Western lands conflicts. These bullet points do not necessarily reflect failures of agencies involved in the Washington County processes.

- Take part in collaborative processes with the local communities, to the extent the law permits. Ensure knowledgeable staff with good communication skills attends meetings, responds to calls, serves on steering committees, and so on.
- Be prepared to address conflicting mandates from Congress. Do not deflect frustration with Congress onto the local community.
- Explain to the locally affected communities how agency processes can and cannot be changed to address local interests.
- Facilitate ongoing communication and collaboration with local leaders and interest groups so as to better address conflicts. Building and maintaining good relationships with the local community goes a long way towards successful collaborations.
- Do not delay implementation of lands bills, especially when they reflect collaborative agreements. If they must be delayed, clearly communicate the reasons to the local community.

As of March 2015, a copy of the legislation is available at the following government website:

<http://www.gpo.gov/fdsys/pkg/PLAW-111publ11/pdf/PLAW-111publ11.pdf>.