

# WHO LITIGATES AND WHO COLLABORATES? SUMMARY OF FINDINGS FROM STATE AND LOCAL ENVIRONMENTAL GROUPS IN THE WESTERN US

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## OVERVIEW

Adversarial politics have dominated National Forest policy in the western United States, where environmental groups, the timber industry, and other interests have battled over access to public land and resources. The inability to find lasting solutions to forest conflicts has increased calls for collaboration to improve National Forest management decision-making. Collaboration involves multiple, often competing interests working together to solve a common problem or achieve a common goal. Some environmental groups operating in the western US eschew collaboration and use confrontational tactics such as appeals and litigation to influence forest decisions. Other environmental groups express frustration with business-as-usual and are getting involved in collaboration.

At present, little is known about the factors that affect state and local environmental groups' participation in collaboration, and how that affects representation, diversity, and inclusion in collaborative processes. This research examined forest-related environmental groups to better understand their use of different strategies to influence public forest policy, and the implications for environmental group representation, collaboration, and National Forest decision-making. The research was guided by two questions:

1. What are the attitudes and behaviors of state and local environmental organizations in the western United States toward collaboration?
2. What factors influence their attitudes and behaviors with regard to collaboration?

Data were collected in eleven states in the western US: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Research was conducted in two phases over a period from June 2008-June 2009. First, a survey was conducted of 101 environmental groups that addressed forest-related issues and operated in the study area. Sixty-one organizations responded, for a 60% response rate. The survey gathered information about the organizations and their attitudes and behaviors toward collaboration, to test relationships between organizational characteristics and strategy choice.

Next, four organizations operating in US Forest Service Regions 4 and 6 were chosen for case study research based on their use of collaborating and confronting strategies. Fourteen interviews were conducted and various archival documents were analyzed to examine in greater detail the correlations between organizational characteristics and the choice of collaboration or confrontation.

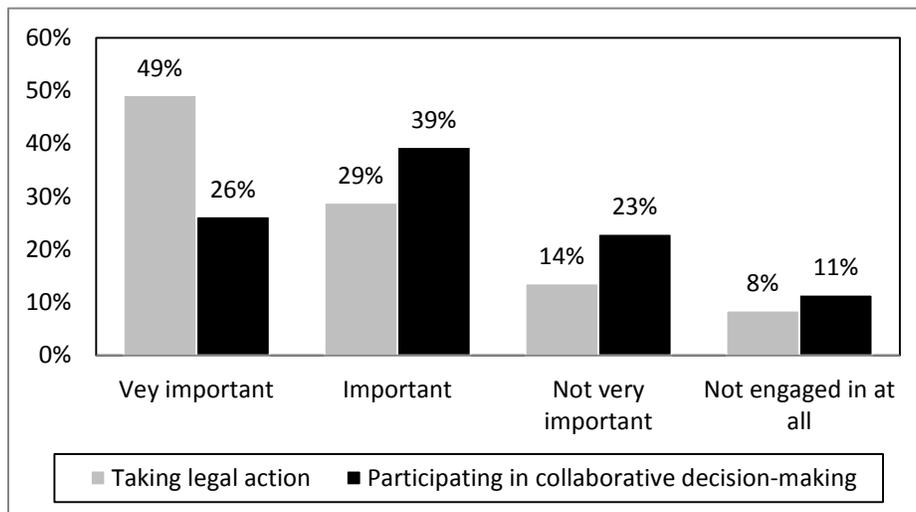
The results show that large, more professionalized organizations and those with multiple values use a collaborating strategy; small, less professionalized organizations and those with a single environmental value use a confronting strategy. In other words, collaboration is not representative of all environmental groups – smaller groups and more ideological groups are not involved. This research serves as a caution to those who would use, or advocate the use of, collaboration – its use must be carefully considered and its process carefully designed to ensure the most balanced representation possible.

## RESEARCH FINDINGS

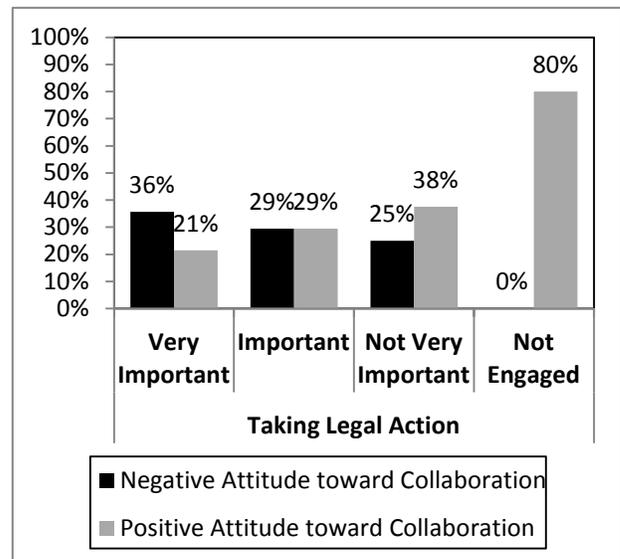
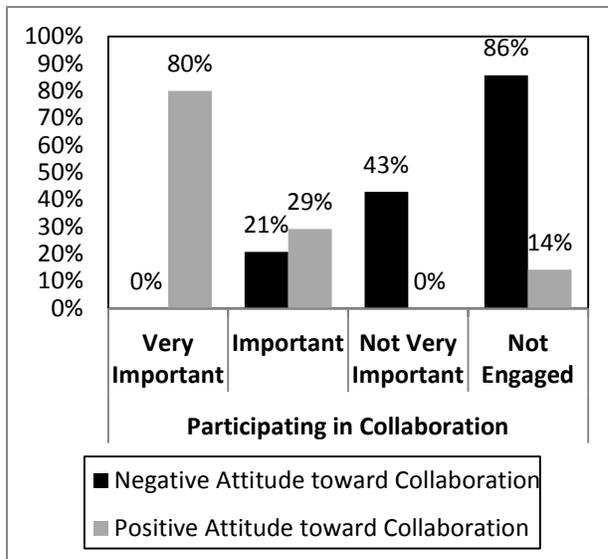
### Strategy Choice

**Some forest-related environmental groups choose a confronting strategy to advocate for their interests while others choose a collaborating strategy.**

- Interest group theory says that organizational strategy is made up of behaviors (specific tactics used) and attitudes (beliefs about the optimal means for achieving influence). This study was based on the assumption that an organization that takes legal action and has a negative attitude toward collaboration uses a confronting strategy. An organization that participates in, and has a positive attitude toward collaboration uses a collaborating strategy.
- The behaviors of particular interest in this study were *taking legal action* and *participating in collaborative decision-making*. While all groups surveyed used a variety of tactics to influence policymaking, taking legal action was “very important” to more organizations (49%) than collaboration (26%).



- Organizations exhibited a range of attitudes toward collaboration: 28% had a negative attitude, 38% had a mixed attitude, and 33% had a positive attitude.
- There were statistically significant relationships between behaviors and attitudes. Organizations that participated in collaborative decision-making had a positive attitude toward collaboration; organizations that used litigation had a negative attitude toward collaboration. The strong relationships between “behavior” and “attitude toward collaboration” supported the use of these two variables to measure organizational strategy.



- Of the organizations surveyed, ten were identified as using a collaborating strategy. Six were identified as using a confronting strategy.

### **Organizational Characteristics Influencing Strategy Choice**

#### **Better resourced, more professionalized organizations use a collaborating strategy.**

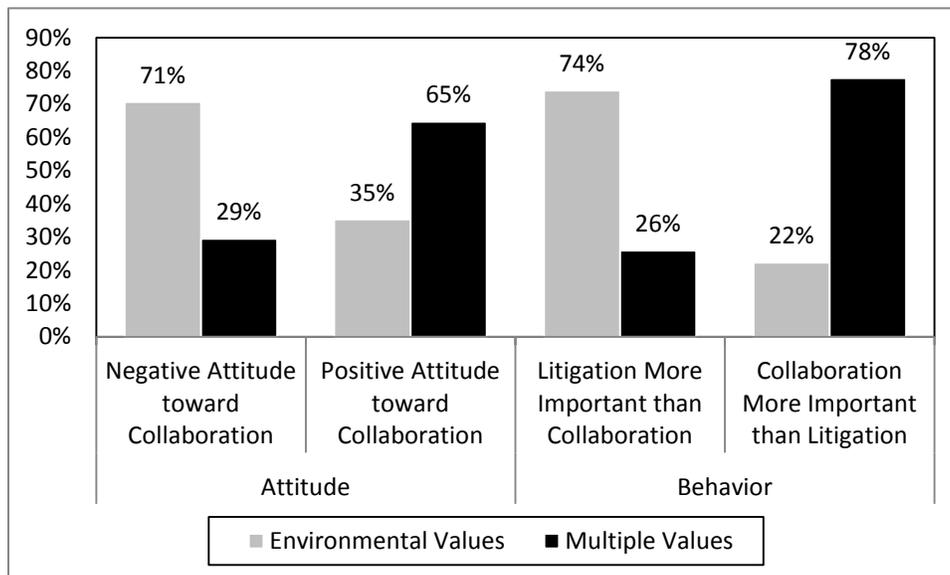
- An organization's resources affect its ability to participate in collaboration. Collaboration is time and resource intensive, so it requires adequate resources to participate.
- Organizations with larger annual budgets and more full-time employees were statistically more likely to use a collaborating strategy than those with smaller budgets and fewer employees.
- More professionalized organizations – those with large budgets, a large number of staff and Board members, more diverse funding sources, and high compensation for key employees – were statistically more likely to use a collaborating strategy than less professionalized groups.
- There was no statistical relationship between litigation and budget/staff, or litigation and level of professionalization. Although organizations that had smaller budgets and were less professionalized had negative attitudes toward collaboration and did not engage in collaboration, they were not necessarily using litigation. They had other tactics and strategies available to them, such as protesting and public education.

#### **Government funding is associated with a collaborating strategy; private foundation funding is associated with a confronting strategy.**

- Organizations with a high percentage of funding from government agencies were statistically more likely to use a collaborating strategy. Those with no government support were statistically more likely to use a confronting strategy.
- Organizations with a high percentage of private foundation support were statistically more likely to use confrontation. Those with little or no foundation support were statistically more likely to use collaboration. This finding contradicts a common assumption that environmental groups are only participating in collaboration to get foundation grants to keep their operations going.

**Organizations that express multiple values use a collaborating strategy; organizations that express only environmental values use a confronting strategy.**

- An organization’s interests and values affect its willingness to participate in collaboration, or its preference for using confrontation to achieve its goals without compromise.
- Organizations that valued the environment, economy, and equity were statistically more likely to have a positive perspective on collaboration and to participate in collaborative decision-making. For these organizations, a collaborating strategy ensured attention to and participation of multiple interests and offered the potential to find solutions that work for diverse stakeholders.
- Organizations that expressed only environmental values were statistically more likely to have a negative perspective toward collaboration and to use legal tactics. For these groups, a confronting strategy ensured consideration of environmental interests in decision-making and offered the potential for “winner takes all” outcomes in which the environment could be fully protected from harmful activities.



**Views on US Forest Service**

**The US Forest Service faces challenges in using collaboration to resolve natural resource conflicts.**

- The interviews conducted for this research highlighted a history of distrust between environmentalists and the Forest Service, and doubt about the agency’s use of collaboration.
- The two confronting organizations interviewed believed the US Forest Service would use whatever means available, including collaboration, to try to get around the law and move timber projects forward.
- The two collaborating organizations interviewed said the agency has misused and mismanaged collaborative processes in the past, particularly collaboration mandated by the Healthy Forests Restoration Act, though the agency has become more open to and supportive of legitimate collaboration.

***Conclusion: Organizations that have few resources and are less professionalized, and those that hold pure environmental values are not represented in collaborative decision-making because they are unable or unwilling to participate. These organizations depend on legal and regulatory avenues to achieve their goals.***

## **IMPLICATIONS AND RECOMMENDATIONS**

If the US Forest Service continues to emphasize collaborative decision-making, smaller, less professionalized organizations and those that advocate only environmental values could be marginalized in public forest decision-making. Marginalization could have significant effects on the character, access, activities, and influence of these organizations that play an important role in the environmental movement.

### **Recommendations**

- **Capacity Building:** If groups are not participating because they cannot – due to a lack of resources – capacity building will be necessary to allow them to collaborate. Government and private foundation support could be directed to smaller groups. Coalition building with local, regional, or national groups could help smaller organizations leverage resources and access to collaborate. Developing and training volunteers to represent conservation interests in collaboration could help build capacity to track issues, be involved, and monitor processes at the local level.
- **Alternative Participation:** If groups are not participating because they will not – because collaboration does not satisfy their interests – then alternative forms of participation will be necessary. Ensuring that non-participants can monitor processes, activities, and outcomes of collaboration is one such opportunity. Creating inclusive joint fact-finding processes is another opportunity that offers a more value-free collaborative environment, and could result in more positive collaborative experiences.

If smaller, more ideological environmental groups are not involved in collaborative decision-making, then collaboration is not representative of all affected interests and collaborative decisions do not reflect the concerns of all stakeholders.

### **Recommendations:**

- **Practice “Good” Collaboration:** Simply using collaboration does not ensure successful and lasting resolution of public land conflicts. Policymakers using collaborative decision-making must encourage and practice collaboration that is used in the right circumstances and done through an open, transparent, inclusive, and otherwise legitimate process.
- **Leverage Lessons Learned:** The experience of both collaborating groups and confronting groups can be leveraged to better understand when collaboration is appropriate and when it is not, and which processes are legitimate and which are not.
- **Improve Representation:** Representation could be improved through communication and coalition-building among local, regional, and national environmental organizations to acquire national as well as local input.

Given the rocky history between environmental groups and the US Forest Service, it will be hard for the Forest Service to build relationships and trust as it initiates or participates in collaboration. Moreover, given that collaboration does not ensure representation by all interests, it will be hard for the agency to

create representative and participatory processes. Finally, given non-collaborators' reliance on law and regulations to participate in decision-making, the agency will continue to meet resistance to efforts perceived as undermining the statutory framework for environmental protection.

**Recommendations:**

- **Collaborate Openly and Honestly:** The US Forest Service has to be a supportive participant in collaboration, helping create and promote appropriate and legitimate processes. It cannot abuse the process to side step the law and move projects forward without environmental and public review.
- **Integrate Collaboration within Legal Framework:** The agency and policymakers should find ways to integrate collaboration within the legal and regulatory framework for environmental decision-making, to capture the strengths of both and to ensure multiple venues for interest groups to access and influence decision-making.
- **Identify and Pursue Common Interests:** The US Forest Service should identify and pursue forest management goals that bring a broader array of stakeholders to the table. Both confronting and collaborating environmental groups are willing to collaborate on restoring watersheds and ecosystems – themes which also could draw in community and economic interests.