The political choices that people confront in governing watersheds include deciding how to structure the governing institutions and organizations, who will participate in making decisions, how decisions will be made, and how decision makers will be held accountable. Several watershed writers accept politics as a given but express a weariness with existing political choices and a hope or desire for a different type of politics—a politics that is more reflective, collaborative, and cooperative; a politics that unfolds outside of present governments and dominant political institutions. Even savvy and experienced scholars such as Gregg and colleagues (1998, 26) convey such a sentiment in
their discussion of collaborative watershed efforts: “One of the strengths of watershed initiatives is their ability to focus their activities directly at the most pressing natural resource problems of particular watersheds, often operating outside of normal governmental processes and free from the constraints of inflexible mandates or program requirements” (emphasis added).

Of course, Gregg and colleagues may merely be pointing out that political decision making can be improved when governance structures better match the watershed setting. (On this point, see also E. Ostrom 1992.) That is certainly a laudable aim, and we do not suggest for a moment that all institutional arrangements are equally good or bad. Political settings and choices may be more or less conflictual, more or less rigid, more or less open and accountable; what they cannot be is nonpolitical. And politics matters a great deal. In the end, policy alternatives are understood—and to a great degree either embraced and implemented or undermined and abandoned—in relation to whom they include or exclude, or whom they affect and how; how decisions are made and by whom; and how decision makers may be held accountable for their decisions. They are understood and accepted or rejected, in other words, on the basis of political considerations. As Scharpf (1997) notes, and as has been amply demonstrated in the watershed literature, policies believed to be optimal, in that they maximize a specific value or two, such as wetland protection or nutrient reduction, are rarely adopted as designed (see also Nakamura and Born 1993, 808). Usually they are modified because of political reasons, and (despite the somewhat politics-weary tone found in much of the watershed literature) that is not necessarily a bad thing.

Our goal is therefore to place some of the political choices that are embedded within watershed management in plain view and discuss them, in the hope that a clearer understanding of the political nature of the watershed will be useful for resource managers and their fellow citizens in recognizing those choices and their implications. In this chapter we focus directly on three sets of political issues—boundaries, decision-making arrangements, and accountability—all of which are unavoidable, even in collaborative efforts to manage watersheds sustainably and scientifically. We hope that the discussion illuminates not only the issues themselves but the necessity and value of being more explicit about them.

The chapter closes with a case study of the Platte River Basin. After more than a decade of conflict over endangered species issues, the governors of the three basin states and the Department of the Interior adopted
the Platte River Cooperative Agreement. The agreement commits Nebraska, Colorado, and Wyoming to providing additional water to the river to protect and enhance critical habitat and to mitigate the effects of new water uses on river flows. In developing the agreement and devising a governing structure to implement it, the participants had to make explicit choices about who participates, how decisions are made, and how participants are to be held accountable. The Platte River case therefore provides an illustration of these fundamental political choices at work.

BOUNDARIES: WHO SHOULD MATTER IN WATERSHED DECISION-MAKING ARRANGEMENTS

The hope for a best way of governing watersheds can sound at times like a hope for watershed management without politics—more scientific, rational, and comprehensive, less bogged down by special interests and intergovernmental rivalries. This can be heard to some degree in the language about organizing management around watershed boundaries, because they are “natural” and “real,” unlike “political boundaries” that create undesirable “jurisdictional externalities.” Other scholars have pointed out, however, that the physical setting is less determinative and perhaps even less a “given” than thought. As Griffin (1999, 509) observed, “One problem with using watersheds as the geographic unit for management is that watersheds may not always be well defined. Omernik and Bailey (1997) report that approximately one third of the coterminous United States may possess physical characteristics that make watershed delineation problematic.”

Besides, Brunson (1998, 65) noted: “All boundaries are social constructs, marking human-perceived differences in the nature and identity of places. . . . Even ecosystem boundaries are social constructs in that they reflect the spatial extent of natural conditions that characterize a human-defined categorization within the continuous range of actual and potential conditions.” In the watershed context, Woolley and McGinnis are more direct still:

Each watershed organization faces a boundary identification problem. Watershed organizations cannot depend merely on scientific information in the planning process. Each group struggles with a basic political issue—defining boundaries and planning issues. The benefits of the watershed focus—broadly about connections and interdependencies over a relevant geographic area—do not include the elimination of conflict
and contention. Watershed planning, therefore, is always a scientific and a political activity. (1999, 591, emphasis in original)

Furthermore, a new batch of boundary questions emerges once one decides to try to organize management at the watershed scale. What is the appropriate watershed scale at which to govern? Should decision-making bodies be organized around small-scale watersheds that feed into larger watersheds that in turn feed into even larger watersheds? Or should a set of governance boundaries be drawn around a large-scale watershed? What about watersheds that have been tied together through human intervention, as is so common in the western United States with its history of inter-basin water transfer projects? Should these artificially linked water resources be governed as a single watershed (and if so, what happened to our notion of watersheds as “natural” boundaries?) or as separate ones despite the canals, pipelines, and pumping stations that connect them? All of these are political questions, ones that the physical setting alone cannot answer. As experienced water resources managers know, topographical maps cannot give us all the answers. Moreover, until decisions are made concerning who is in and who is out of the watershed, and thus who may have access to decision making about its resources and their use, science cannot answer how much water can be used, how much timber can be harvested, and how much land can be developed and in what manner.

Political scientist Deborah Stone (1988) notes that who gets what is as important as how they get it, but defining “who” and “how” is not a straightforward process. Each may be defined in a multitude of ways, and each definition is likely associated with a different notion of equity or fairness. Who, and whose interests, should be represented in watershed decision making has long been debated in the literature. Defining “who” involves distinguishing some people from others. People will predictably and understandably contest the distinctions made, either fighting to get in and be counted or seeking ways to escape and avoid what they perceive as the burden of belonging.

At one end of the spectrum in the debate over who should be included in decision making are Bates and colleagues (1993), who provide some of the strongest statements for the viewpoint that everyone affected by or affecting a water resource should be included in decision-making processes, whether located within the watershed or not. They refer to “the whole community” for any given water resource and define it in the following ways:
Western watersheds all implicate more diverse communities than ever before. Today’s community of interest is likely to include—in place of the old miner-farmer-rancher-industrial coalition that made western water policy—citizens determined to reduce government expenditures; Indian tribes; residents opposed to continued rapid growth in their geographic communities; environmentalists; citizens who want western rivers, lakes and aquifers managed to guarantee sustainability for their children and grandchildren; recreationists of all stripes; businesspeople whose livelihoods depend on the West’s emerging recreation economy; and those who simply believe, fervently, that western rivers should be allowed to retain the incomparable, eternal qualities that provide so much inspiration, reflection, and fulfillment. All of these and other identifiable interests need to be represented in modern water policy, and in most watersheds nearly all of them are clamoring for recognition. They will be heard, one way or another. (Bates et al. 1993, 9)

The essential importance of water places a special value on the manner in which decisions are made respecting its use and availability. The whole community must be considered in those decisions, and all interests must have a meaningful opportunity to participate. (Bates et al. 1993, 182)

For Bates and colleagues (1993, 197), fairness requires that all who are touched by the effects of water use, no matter how separated by time and distance, be involved in a meaningful way in decisions that affect it. All should be allowed to participate and to have their interests represented. Given the importance of water, they conclude, an expansive notion of “who” must be adopted. Their viewpoint is echoed in statements by countless others arguing that watershed management should encompass “all affected interests.”

At the other end of the spectrum, Ingram and colleagues (1984) take a less sanguine view of broad-based participation in watershed decision making. Regional decision making at a watershed or river basin scale always bears the risk of overlooking or undervaluing local impacts. Ingram and colleagues (1984) argue that the people who are most affected by watershed uses, which are most often geographic communities situated within the watershed, must be given the greatest weight in decision making. They caution: “It is important to look at consequences from a particularized or localized perspective as well as basin wide. Despite the fact that physical scientists describe river basins as general, interconnected systems, the experience of impacts is often discrete and localized” (1984, 326). Thus, “the appropriate
geographic boundaries within which to identify interests in institutional assessments should be drawn from an understanding of the stakes rather than river basin boundaries, subject matter, or other artificially imposed limits” (ibid.).

Furthermore, in those discrete and localized settings that often exist at the sub-watershed scale, decisions about water resources are also decisions about the nature, strength, and future of communities. “Water still symbolizes such values as opportunity, security and self-determination. . . . Control over it signals social organization and political power. . . . Strong communities are able to hold on to their water and put it to work. Communities that lose control over water probably will fail in trying to control much else of importance” (Ingram 1990, 5). Weber (2003) broadens the discussion to include economic considerations. Members of place-based communities often rely heavily on natural resources for their livelihoods. Severely restrict logging in national forests, or substantially reduce irrigation water from federal water projects, and local economies buckle. Thus, for economic as well as political and cultural reasons, local communities situated within watersheds need to be represented in watershed decision-making processes.

Thus far, nothing has been stated that would raise serious disagreement, even though the statements quoted above come to the issue of inclusion from differing perspectives. One could finesse the choice rhetorically: broad inclusion of “all affected interests” sounds good, as does the representation and protection of local communities where the impacts of watershed management actions are felt most strongly. There is a deeper puzzle, however, that is harder to elide once it is articulated more starkly. If we say that “all affected interests” should be included, for instance, what do we mean by someone or some group having an “interest” in the watershed? Does “having an interest” mean living in the watershed? Using resources from the watershed? Visiting the watershed regularly, or even occasionally? Hoping to visit the watershed someday? Caring about the watershed even though one never expects to live or visit there?

To put it even more bluntly, can one “have an interest” in a watershed by just “taking an interest” in the watershed? Can I put myself “into” a watershed by an act of choice or an exercise of will because I want to be included? And would this be a unilateral act on my part, or do others who claim to be connected with that watershed have some say in whether I am “in” or “out”? When we define boundaries, we are saying (whether we acknowledge
it explicitly or not) who is in and who is out, who “counts” and how much and who doesn’t count at all. In more mundane political terms, who has a vote, a veto, or both, or neither?

With these questions in mind, let us go back to the points raised by Ingram and colleagues on the one hand and Bates and colleagues on the other. Ingram’s argument that local communities should be protected in decision-making processes raises some important concerns over the involvement of non-local communities of interest recommended by Bates and colleagues (1993). The potential loss of control and the fate of one’s local community, if watershed-scale decision making is opened up to non-local communities, are serious issues with no easy resolution. Even though Bates and colleagues (1993, 195) advocate opening watershed decision making to all who are affected by or interested in the watershed, they also make the case (perhaps unintentionally) against involving non-local communities of interest:

The trade-offs inherent in water decisions can be calculated in broad equivalents: a car wash in Los Angeles consumes the water of a family farm in Owens Valley; a farm in La Paz County is worth two golf courses in Tucson; a subdivision in the Denver suburbs with Kentucky bluegrass lawns uses the amount of water needed to keep a pristine western Colorado mountain stream full of fish; turning down the air-conditioning temperature by two degrees in Phoenix requires releases of water from hydroelectric dams that destroy a season’s boating in the Grand Canyon. What does all this mean to the L.A. car wash customer, the Denver lawn waterer, the cattle rancher, the golfer, or the Phoenix resident? It’s tough to appreciate the difference one more clean car, green lawn, golf course or cool Phoenician will make. (Bates et al., 1993, 195)

Do those Phoenicians, Angelenos, and Denverites count as “affected interests” who need to be included in watershed decision making for La Paz County, the Owens Valley, and Colorado mountain streams? Those distant urbanites number in the millions, to say nothing of the financial resources under their control. If watershed policy making is opened to all of these affected people who, according to Bates and colleagues (1993), have a hard time understanding the local impacts of their distant choices, why wouldn’t they choose to maintain their lifestyles over those of a comparatively small number of farmers or recreational fishers and kayakers? On what basis would we exclude them from participation in decision making about the resources of those valleys? Now the boundary problem can be seen in sharper
resolution—who is going to be in the political watershed and who is not is a question with answers and implications that cannot be seen or defined topographically.

Suppose we opt instead to keep the distant nonresidents out of the political watershed. To be “in” the watershed would then mean to be physically connected with it in some direct way—living there, for instance. Critics of giving precedence to the values of local communities of place rightly note that such communities often fail to, or are incapable of, attending to legitimate values that transcend their boundaries (Tarlock 2000b). As Karkkainen (2002) notes, not only are the Florida Everglades and the Chesapeake Bay regional ecosystems to be used and enjoyed by local residents, they are national treasures with national interests attached to them, interests that deserve to be recognized. For every Owens Valley–like tragedy that supporters of the politics of place can cite, supporters of opening watershed decision making to many interests can point to numerous streams and rivers reengineered to serve the narrow economic needs of the local community while thoughtlessly disregarding a host of other values, such as ecosystem protection. In addition, some commentators on the many local watershed collaboratives springing up across the United States have questioned how participatory such efforts really are in practice and how diverse are the interests they represent (e.g., Kenney 2000; Weber 2003). Weber provocatively raises the question of whether some local watershed collaboratives are really just instances of multinational corporations co-opting and coercing local activists (2003, 6), and others have speculated that companies’ participation in collaborative local watershed initiatives is driven primarily by their desire to avoid the regulatory “hammer” held by state or (more likely) federal agencies.

Ultimately, debates over who should be included within decision-making processes are debates over which values should be given the greatest weight. Whose values will be served? Some values do not easily or readily correspond to geographical communities or boundaries. Bates and colleagues (1993) argue for a more expansive notion of who should count in hopes of more directly injecting conservation, sustainability, and protection values into policy decisions. Yet, as their own examples illustrate, including nonlocal communities of interest in decision making may lead to unintended and/or undesirable outcomes. Water demands by urban residents or commercial interests may win out over conservation efforts by local watershed residents.
Arguments over boundaries and inclusion often hinge on the outcomes advocates are trying to promote; they are political arguments. If advocates for ecological values believe that local watershed users are also committed to those values, they will argue for excluding nonresident interests whose inclusion would threaten those values (the “keep L.A. out of Owens Valley” argument). On the other hand, if those advocates believe local residents will not promote ecological values, they will argue for including nonresident interests (the “ANWR is a national treasure” argument). Advocates of commercial interests in the consumptive uses of water make the same sorts of arguments, but in the opposite direction.

Dismissing the inconsistency of these stances as hypocritical is too easy, or at least misses the larger point that each stance is connected strategically with a political goal. The famed twentieth-century American political theorist E. E. Schattschneider (1960) nicknamed such strategies “managing the scope of conflict”: one set of interests is likely to advocate defining the situation in ways that keep the scope limited and another set of interests will try to define the situation in ways that draw in more participants, each anticipating the effects that the narrower or broader scope will have on the likelihood of their preferences prevailing.

Of course, conflicts and policy choices are not fixed in time. As the social and economic landscape of a watershed changes, so do the impacts of boundaries identifying who matters. Changes in population concentrations or in economic activities bring different values to the fore within a watershed. Many water districts, formed several decades ago by irrigators, now find that a majority of their members are municipal and industrial water users and that most of their water is used in urban areas for nonagricultural purposes. Beyond the watershed, as administrations change in state capitals and in Washington, D.C., different values will be pursued, impacting watershed policies and activities. Neither defining communities of interest broadly nor giving pride of place to local, geographic communities guarantees that a particular set of values will be pursued consistently over time as the watershed setting and its context change.

ORGANIZING WATERSHED DECISION-MAKING ARRANGEMENTS

The choice of decision-making arrangements or, using Stone’s (1988) terminology, defining “how” decisions will be made is just as political as deciding
“who” matters. All institutional structures for water resources decision making “are likely to have different policy orientations. They are also likely to vary in their accessibility and responsiveness to particular interests, their capacity to generate the appropriate flow of information, and their preference for certain problem solutions” (Ingram et al. 1984, 328).

How should decisions be made? The answer most commonly given in the watershed management literature currently is consensus, in part because of the widespread adoption and experimentation with watershed initiatives that are based on collaborative working groups of officials from government and nonprofit organizations and citizens, who typically use consensus as their decision-making rule (Kenney 2000). Weber (2003, 4) notes the stark contrast between “business as usual” and a collaborative approach to addressing and resolving environmental problems. “Instead of centralized hierarchy, government experts in control, specialized agencies, and layer upon layer of written rules and procedures, GREM [Grassroots Ecosystem Management] is premised on greater decentralization of governance, shared power among public and private actors, collaborative, ongoing, consensus-based decision processes, holistic missions (environment, economy, and community), results-oriented management, and broad civic participation.”

Consensus, which requires that all participants consent to a decision or action before it is taken, is viewed positively for a variety of reasons. First, cooperation is emphasized over conflict. Discussion and debate are continued, information is shared, and alternatives explored until no one insists on opposing a proposed solution (Scharpf 1997, 144). Second, the consensus-building process supports the emergence of productive working relationships that emphasize problem solving over staking out a position and defending it at all costs (Kenney 2000). Third, consensus decision making produces more legitimate and acceptable solutions than do other forms of decision making because all participants must consent to a proposal before it is adopted. As Scharpf (1997, 144) notes, “consenting parties cannot claim to be injured.” For all of these reasons, consensus exhibits some attractive normative features. Not only does it work to build community as people search for common ground, but it protects individuals’ interests from being subjugated to community interests.

Although certainly consensus possesses some attractive features, political scientists have good reasons to be skeptical about consensus, which is in essence a unanimity rule. For reasons that have been explicated theoretically
(Buchanan and Tullock 1962) and observed in empirical settings, unanimity rules are understood as having the potential to impede collective action by empowering each individual with a veto. A single person can hold out for what he views as a better deal for himself or those that he represents. Scharpf (1997, 144) has labeled such situations as joint decision traps “in which the beneficiaries of the status quo can block all reforms, or at least extract exorbitant side payments.” In practical settings, consensus-based decision making has led to gridlock, a search for the lowest common denominator that all participants can agree upon, or a “something for everyone” form of distributive policy (Milon, Kiker, and Lee 1998; Coglianese 1999; Coglianese and Allen 2004). As Coglianese (1999, 31) states, “Consensus building shifts the ultimate goal away from reaching a quality decision and moves it toward reaching an agreeable one. A consensus among a select group will not always equate to socially optimal policy.”

Gridlock and a something-for-everyone form of distributive policy making become more likely the greater the number of participants and the more diverse their interests. Bates and colleagues (1993, 3) describe current western water policy as “a Gordian knot.” Yet it seems a reasonable question to pose whether the meaningful involvement of the interests of every person or group that affects or is affected by a watershed, even those separated by distance and time, would combine with the requirement of consensus-based decision making in such a way as to cut the Gordian knot or pull it even tighter. It can be challenging to imagine a single watershed restoration project that could be adopted and implemented using such an approach, even in a relatively small watershed.

Consensus may be the recommended approach to decision making in watersheds for at least two reasons. One may be that those who advocate it sincerely believe it is the best means of proceeding toward collective decisions. Another may be that consensus has dominated the watershed management literature because any other manner of decision making seems worse. Consensus seems to promise something other than the types of conflicts and risks that would attend other forms of decision making (Kagan 1997; Kenney 2000).

Move away from consensus, and what remains? Alternatives include some form of majority or super-majority voting process. It is not unusual to find decision-making bodies operating with a combination of consensus and voting. Participants attempt to develop consensus positions on issues;
however, if that fails, participants can bring the issue to a vote. The advantages of combining the two decision-making approaches rest in the ability to make decisions even in the face of significant disagreements among participants. Although the normal operating procedure is consensus, which allows participants to avoid overriding the interests of a minority, voting allows decisions to be made when necessary. Scharpf (1997, 144) suggests that this combination of decision rules emerges in settings where the norm of reciprocit operates and participants expect to be in the minority position at varying times. The Fraser Basin Council in British Columbia, Canada, for example, is renowned for its use of consensus decision making, yet consensus is always reached in the shadow of council rules that allow the council president to call for a vote. Presidents have occasionally used the threat of calling a vote as an instrument for moving contesting council members toward a consensus (Blomquist, Calbick, and Dinar 2004).

Although voting has the agreeable quality of allowing collective action to occur, especially among large numbers of people even in the face of conflict, it is purchased at the expense of permitting the exploitation and domination of minority interests (Ostrom 1987). There are a number of mechanisms that attempt to minimize and correct for the possibility of minority exploitation, such as dividing power among several decision-making bodies; separating executive, legislative, and executive powers and allowing them to check one another; and providing opportunities for the independent review of actions and decisions. Discussion of these familiar accountability mechanisms will be further elaborated in the next section. However, there is another limitation of voting mechanisms, especially from the perspective of proponents of consensus decision making. Voting showcases politics, in the sense of bargaining, vote trading, compromising, presenting information about one’s positions and actions in the most favorable light, and casting doubt on the veracity of the information provided by one’s opponents, and occasionally treating decision making as a zero-sum game—what is gained by one side is lost to the other. All of this is a far cry from the reasoned deliberation and search for common solutions that consensus processes ideally support.

The desire for reasoned deliberation and solutions that serve the public interest may explain why in the watershed literature, prior to the emergence of consensus-based watershed initiatives, attention was and continues to be focused on integrated management. As described in Chapter 2, advocates of
integrated watershed management desire to see put in place watershed-scale authorities with broad functional powers peopled by well-trained experts who could develop and implement policies that take into account and manage the many interconnected dimensions of a watershed. Integrated watershed management has been likened to a restoration of rational planning (Walther 1987, 440), a form of decision making in which expert elites draw together information about all alternatives in order to reach reasoned conclusions about which choices will best serve social goals. Decision making would be, using Scharpf’s (1997) terminology, hierarchical. Hierarchical decision making eliminates the transaction costs of coordination, whether that involves developing a consensus among decision makers or building support among a majority of officials, and instead allows an expert, either an individual or an agency, to make decisions (Scharpf 1997, 172). The perceived benefits of such an approach are several and are strongest in their contrast to existing decision making that occurs in many watersheds. For instance, fragmented and uncoordinated decisions would be replaced with comprehensive and integrated decisions. Also, decisions would be based on scientific expertise and not on narrow distributive concerns.3

The criticisms leveled at this approach include information demands and motivation concerns (Scharpf 1997). Hierarchical decision making makes a number of information assumptions that are rarely met. It presumes that (1) social goals are known with some precision and remain constant over the relevant period (Milon, Kiker, and Lee 1998); (2) the number of social goals to be pursued is limited and those goals do not contradict one another (O’Toole 1993); and (3) decision makers are able to comprehend everything from land use planning to biological systems and their responses to economic and political dynamics (Newson 1997, 311).

Furthermore, hierarchical decision making assumes that authority will be exercised in a benevolent manner. The expert decision makers will pursue the public good and not their own personal goals or the goals of various special interests. Just like voting systems, however, the exploitation or oppression of underrepresented or minority interests can occur in elite rule. Jacobs (1978) vividly recounts the tragic tale of how watershed planning in the Rio Grande systematically worked to the detriment of an “inconvenient” minority of native Latino and Indian farmers in the Española valley north of Santa Fe. Despite procedural guarantees of public hearings and participation, regional watershed planning for the Rio Grande became in effect
“top-down planning.” The endeavor to make decisions for and about the watershed as a whole led to the diminution of the effects on several small (and relatively powerless) sub-watershed communities.

Ultimately, the search for a more deliberative or a more rational decision-making structure may be a misguided search for a sort of bloodless organization. Consensus holds the promise of reaching sensible and fair decisions without the conflict and strategic behavior characteristic of traditional approaches. Hierarchical decision making allows experts to devise good policies based on science and professional standards of conduct, once again, avoiding the difficult negotiations, compromises, and trade-offs that so often characterize watershed governance. In practice, however, consensus and hierarchical decision making consistently deliver on their promise in relatively simple and conflict-free settings. Move beyond such settings and their shortcomings become immediately obvious, just as do the shortcomings of different forms of voting systems. In other words, choices among decision-making processes are choices among imperfect alternatives (Komesar 1994).

ACCOUNTABILITY IN WATERSHED GOVERNANCE

We turn next to an examination of accountability, which among other things involves reflecting upon whether decision-making authority has been exercised appropriately. Ensuring that authority is exercised appropriately depends on the form that authority takes. If it takes a traditional form, such as a state legislature or a federal agency, well-understood and commonly used forms of accountability will most often be used. Members of a representative assembly are primarily held accountable through elections. Agency employees are held accountable through legislative oversight, professional norms, and organizational directives.

Watershed governance, however, has historically raised challenging and difficult accountability issues because of the remarkable institutional experimentation and innovation that have occurred in the United States over the past several decades. Many of the organizational and institutional experiments do not fit neatly within existing authority and accountability structures. For instance, decision makers may not be public or elected officials; rather they may be what are commonly called stakeholders and may even be community volunteers. How are volunteers and other stakeholders
to be held accountable? Weber (2003) suggests that nontraditional forms of accountability must be recognized if institutional innovation is to be encouraged.

Accountability allows for the correction of mistakes and discourages the abuse of power. However, accountability is not an either/or proposition. It has a primary dimension of answerability (Heywood 2004), where some assess the performance of others, and a consequent dimension of responsiveness, where it is possible to challenge and revise decisions and actions that are regarded as unsatisfactory (Romzek and Dubnick 1987; Romzek 1998).

Consequently, accountability can take a variety of forms and political choices must be made about which types are to be used to ensure good governance of a watershed. The different forms of accountability relationships include hierarchical, legal, political, and professional (Romzek and Dubnick 1987; Radin and Romzek 1996). Hierarchical accountability rests on an organization’s rules, regulations, and organizational directives as means of holding employees in check. The behavioral expectation according to Romzek and Ingraham (2000) is obedience to regulations and organizational directives. Those who are higher in a hierarchy can use the rules and regulations to direct, guide, and assess the performance of those lower in the hierarchy. Professional accountability relies on individuals internalizing norms of appropriate behavior that are acquired from professional practices, work experience, and training (Knott and Miller 1987; Wilson 1989; Romzek and Ingraham 2000). An individual’s actions are compared to the accepted practices of the individual’s profession, often by superiors or by professional boards, to gauge whether that individual exercised professional judgment in acceptable ways.

Legal and political accountability relationships call to mind more traditional forms of accountability. Legal accountability rests on laws and constitutions and determining whether a public employee or public official complied with legal and constitutional mandates (Romzek and Ingraham 2000). Oftentimes such determinations are made by courts, through the process of judicial review, but they may also be made by legislative oversight committees. In addition, legal accountability encompasses veto powers. The president may veto an act of Congress, or Congress may override the veto of a president. Finally, political accountability involves responsiveness to key external stakeholders (Romzek and Ingraham 2000). Elected officials are
subject to regular elections by their constituents. Public managers maintain political support by responding to their agencies’ key constituencies and to important elected officials.

In most settings, all of these accountability mechanisms are present; however, one or two are primary on a day-to-day basis. For instance, employees within many public agencies are subject to both hierarchical and professional accountability mechanisms. Not only are they expected to follow organizational directives, but they are also expected to exercise their discretion in light of professional practices and norms (Wilson 1989). For elected officials, accountability mechanisms are much more likely to be political and legal, and much less likely to be professional and hierarchical. In other words, the types of accountability mechanisms that decision makers are most likely to be subject to depend on their positions and their organizations. Political appointees are less directly subject to the discipline of elections and more directly subject to legal mandates and organizational directives. Judges are directly subject to professional standards of practice and conduct and legal mandates, and not hierarchical accountability relations or political accountability mechanisms.

Romzek and Ingraham (2000) argue that during times of crisis and times of reform, all four types of mechanisms may come to the fore. For instance, as intense conflict erupts in some watersheds over endangered species, the actions of public agencies come under increasing scrutiny. Not only may the watershed science developed by the agencies be sent out for review to professional organizations to determine if the agencies abided by scientific protocols and developed “good” science, often at the insistence of angry stakeholders, but the agencies may be reviewed by congressional committees to ensure that they are following legislative mandates, and executive office science advisory committees may be brought in to examine the conflict.

When crisis or failure occurs and multiple accountability mechanisms respond, it often becomes apparent that each mechanism demands contradictory behaviors. The former director of the Buenos Aires Wildlife Refuge in southern Arizona discovered this in his attempt to protect threatened Chiricahua leopard frogs (Tobin 2004). In the midst of a drought, a water hole that was home to some of the threatened frogs was on the verge of drying up. A University of Arizona researcher gained permission to move some of the frogs to a pond on his property; however, if held in captivity over an extended period of time, adult frogs eat all tadpoles, eventually eradicating
the population. Before the frogs perished, the wildlife refuge director wanted to move the frogs to the refuge. Organizational directives and legal mandates dictated that he follow established procedures and seek permission to move the frogs. However, the frogs would have died before the permission process resulted in a decision. Therefore, he decided to move the frogs without permission. He was subsequently removed as director of the refuge and he now may be charged with a federal felony for moving a threatened species without a permit (Tobin 2004).

Part of the conflict surrounding the case of the Chiricahua leopard frogs is over which accountability mechanism should hold precedence. Hierarchical and legal mechanisms require that the director be strictly disciplined and follow the established procedures, regardless of individual situations. Professional and political mechanisms laud the director’s actions as prudent and appropriate in the face of certain death for the endangered frogs. In addition to showing that holding public officials, even scientists, accountable is not always a straightforward process, the incident demonstrates that accountability issues involve political choices that cannot be avoided by arguing that all accountability mechanisms must be used. Choices must be made among them. Should an agency be tightly circumscribed by legal mandates and requirements that also provide numerous opportunities for key stakeholders to intervene and challenge agency decisions? Should public employees be primarily guided by professional norms and practices that are more loosely guided and constrained by legal mandates? Should elected officials be primarily disciplined through regular elections, or should they also be subject to the legal mandate that they can only serve for a limited number of terms? Much like defining whose values should matter most and selecting decision-making processes, there is no one correct answer to these questions.

Watershed governance has historically raised accountability issues that extend beyond making choices among different mechanisms and resolving conflicts among competing accountability claims. Because watershed boundaries do not match political jurisdictions, accountability in whatever form it may take becomes problematic as attempts are made to manage at the watershed level. How do, and how should, new forms of watershed governance fit within the existing political system and all of its familiar accountability mechanisms? Such questions have been raised for decades as citizens and public officials have struggled with the many issues and challenges created
by watersheds. Writing in 1966 about the river basin commissions then in vogue, Colorado attorney and future U.S. senator Gary Hart wrote in the *University of Colorado Law Review*:

Regional agencies such as the Delaware River Basin Commission combine legislative, executive and judicial functions. The establishment of such a unique governmental agency to some extent results in destruction of the traditional system of checks and balances. The agency itself is responsible to no electorate and no single legislature.

Much can be said for the creation of regional water resources development agencies with broad governmental powers and some independent status of their own. The same arguments support the establishment of strong regional agencies designed to meet other regional needs. The thesis of this article, however, is that traditional, institutional protections, viz., the basic “checks and balances,” must be established concurrently with and in proportion to the authority given regional development agencies.

With the administrative and legislative recognition of the river basin as the fundamental water unit, attention must be given to the revolutionary possibilities for regional water resources development which this suggests. What kinds of agencies will supervise and manage this development, and what powers will they have? What relations will they bear to existing forms and structures of government—the federal system of government in this country? It is not too soon to begin consideration of such serious questions. (Hart 1966, 46–47)

Hart’s comments remain relevant, although the context has changed from mid-twentieth-century basin commissions to early twenty-first-century collaborative watershed bodies. According to Tarlock (2000b, 79–80), a critic of watershed initiatives, one reason for the growing popularity of informal collaborative processes for addressing watershed problems is that collaboration offers an alternative to the rigidities and limits of governmental management. Weber (2003, 4) more explicitly makes that point: “GREM [Grassroots Ecosystem Management] also relies extensively or exclusively on collaborative decision processes, consensus, and active citizen participation, which means that private citizens and stakeholders often take on leadership roles and are involved directly in deliberative decision-making, implementation, and enforcement processes along with government officials, especially when it comes to how goals are to be achieved.”

Weber (2003, 67) concisely captures the accountability problem: “Can the new governance arrangements known as grassroots ecosystem manage-
ment produce positive-sum, or broad, simultaneous accountability without detracting from obligations and duties to state and national interests? Or does improved accountability to local interests have to come at the expense of accountability to broader public interests, whether it is state and national interests, or future generations?” In a very careful and in-depth examination of accountability mechanisms present in local collaborative watershed efforts, he argues that accountability occurs at different levels and along multiple dimensions. Local collaborative efforts, even if they do consist of unelected volunteers, are accountable in numerous ways to the citizens of the communities and localities in which they are organized. Collaborative efforts are open to all who wish to participate, and collaboratives often engage in considerable outreach and education in their local communities. Furthermore, consensus decision making encourages deliberation, discussion, and the exchange of ideas. Thus, open meetings and consensus decision making mean that it is virtually impossible for a narrow set of interests to dominate and drive the process. Rather, a wide variety of people, representing a variety of interests and values, participate.

Weber argues that watershed collaboratives are accountable to regional and national interests and values as well. Such broad-based accountability occurs through several mechanisms. Most importantly, watershed collaborative efforts are strictly advisory bodies that “rely on negotiation, broad-based representation of interests, self-generated information regarding watershed conditions, and persuasion (rather than mandates and coercion) to shape policymaking and problem solving” (Weber 2003, 62). Since collaboratives are advisory, they cannot develop enforceable rules and regulations. In addition, the federal agencies that participate in collaborative efforts remain accountable for faithfully abiding by and implementing the federal laws over which they have jurisdiction. Thus, according to Weber (2003), local watershed initiatives are fully accountable both to the local communities within which they operate and to national interests and values as reflected in environmental laws.

To others it remains uncertain how collaborative nongovernmental efforts relate to the administration of existing environmental laws, and how citizens can challenge decisions made through collaborative efforts (Tarlock 2000a, 195; Coggins 2001, 165). Wester and Warner (2002, 68) concur: “Serious thought needs to be given to how hard-won democratic rights in conventional social and political domains are [to be] assured in the river
basin domain.” Thus, the very attractiveness of watershed initiatives to their supporters—that they may operate “free from the constraints of inflexible mandates or program requirements” (Gregg et al. 1998)—is their primary vulnerability in the view of their detractors.

THE PLATTE RIVER COOPERATIVE AGREEMENT

Boundaries, decision making, and accountability are regularly contested, challenged, and changed in the Platte River Basin of Colorado, Wyoming, and Nebraska. Historically, the states controlled the allocation and use of water within their boundaries. Numerous times they engaged in cooperative agreements with the U.S. Bureau of Reclamation to develop and store their water through the building of large surface water projects. Thus, they began to share decision-making authority over water with the federal government. On occasion, the states fought over shared water resources and they called upon federal entities to help them solve their conflicts. In 1923, Colorado and Nebraska turned to the compacting process and devised the South Platte River Compact. In the 1940s, Nebraska filed suit against Wyoming over the North Platte River, asking the U.S. Supreme Court to equitably divide the waters of the river between the two states. The Supreme Court responded by issuing a North Platte River water decree, which Nebraska has repeatedly attempted to enforce through lawsuits before the Supreme Court.

River allocations, either through compacts or decrees, required states to take each other into account in their administration of water. All of these actions involved conflict, but also cooperation, and all were aimed at a single purpose—withdrawal as much water as possible from the river and putting it to beneficial use. The passage of the Endangered Species Act (ESA) eventually called into question the single-minded focus of drawing water from the river and spurred another round of changes in boundaries, decision making, and accountability. To understand these changes requires some background.

Background

The Platte River begins high in the Rocky Mountains of Colorado. The North Platte River rises in North Park, Colorado; flows north into Wyoming; and eventually turns east and south into the panhandle of Nebraska. The
The Platte River Basin.
South Platte River begins southwest of Denver, in South Park, Colorado, where for a brief stretch it flows south before twisting to the northeast, through Denver and Greeley, and then turning more to the east where it eventually flows into southwestern Nebraska. At the town of North Platte in south central Nebraska, the two rivers join to form the Platte River. Flowing east from there, the Platte begins a big bend, southeast and then northeast, before emptying into the Missouri River near Omaha. The Big Bend section in south central Nebraska is a major bird feeding area in the central flyway of North America (Platte River Whooping Crane Maintenance Trust 2004).

Between 1900 and 1940, large dams and reservoirs were built to provide flood protection, irrigation water, and hydropower. Multiple dams and reservoirs—Pathfinder, Seminoe, and Guernsey, in Wyoming; the Antero, Elevenmile Canyon, and Cheeseman, in Colorado; and Kingsley Dam and its reservoir, Lake McConaughy, in Nebraska—have tamed the river (Draft Environmental Impact Statement 2003, 2–14). Habitat for migratory birds—cranes, piping plovers, and least terns—disappeared rapidly as the river was rebuilt to serve human uses. Annually, it generates 300 megawatts of power, irrigates over a million acres of farmland, and provides water to 3.5 million people (Supalla 2000, 253). Between surface water diversions and groundwater pumping, river flows have been substantially depleted. Prior to the reengineering of the river, it is estimated that the average annual flow at Grand Island, Nebraska, right in the middle of the Big Bend region, was 2.6 million acre-feet. Today that flow has been roughly halved (Platte River Draft Programmatic Environmental Impact Statement 2003, 2–21). It should come as no surprise that in 1978, the U.S. Fish and Wildlife Service (FWS), under the auspices of the ESA, declared the whooping crane, the interior least tern, the piping plover, and the pallid sturgeon threatened or endangered (Draft Environmental Impact Statement 2003). Thus began the struggle to reclaim habitat and to allow more water to remain in the river.

Federal courts have interpreted the ESA as providing the FWS with broad grants of power to recover endangered species. As Aiken (1999) notes, federal courts have handed down decisions concerning water and the ESA in three cases, and “[i]n all three of these cases the interests of endangered species were placed above the interests of appropriators. . . . If the FWS determines that appropriated water is needed in order to accomplish the recovery of endangered species, the endangered species get first claim. In negotiations regarding the recovery of endangered species, the FWS negotiates from a
very strong legal position” (Aiken 1999, 127; emphasis added). With the listing of endangered species on the Platte River, the FWS designated critical habitat for species in the Big Bend area of the river in Nebraska and began working with the state to protect and enhance the habitat.

Initially, the FWS and the State of Nebraska were the two primary participants engaged in endangered species recovery efforts on a rich but limited segment of the river. However, recovery and protection efforts around the Big Bend area reverberated throughout the entire basin, eventually resulting in a basin-wide recovery effort involving many participants. Between 1978 and 1998, all proposed water projects in the Platte Basin were stopped, deferred, or substantially modified, engendering considerable conflict, particularly in Colorado and Nebraska, that sometimes flared up to the highest levels of the national government (Aiken 1999). For instance, the Two Forks reservoir that was to supply water to the Denver metropolitan region was killed when the EPA, after close consultation with the White House, denied permits for the project. What captured people’s attention, though, was a high-profile case that significantly affected the operation of an existing water project. Two Nebraska power and irrigation districts operated Kingsley Dam and Lake McConaughy, just upstream of the Big Bend area. When their operating licenses came up for renewal, the Federal Energy Regulatory Commission (FERC), under pressure of a lawsuit, requested that the districts dedicate up to half of their stored water to habitat recovery. Although one district voluntarily complied, the other refused, challenging the FERC decision in court. Eventually, the State of Nebraska intervened, overrode the district, and began negotiations with FERC. The state proposed to create in the reservoir an environmental storage account, owned and operated by the two districts, to support habitat and to be controlled by the Nebraska Game and Parks Commission. The districts agreed to provide up to 100,000 acre-feet of water annually for the account, which FERC accepted (Aiken 1999).

Boundaries

Aiken (1999) argues that the re-licensing of the hydropower dam in Nebraska set in motion actions on the part of states and the federal government that eventually led to a basin-wide cooperative agreement. The Nebraska dam was the first existing water project subjected to the ESA in the Platte River Basin. Nebraska public officials came to realize that species
recovery efforts in the Big Bend region were becoming increasingly onerous, and that those efforts depended not only on what occurred downstream in Nebraska but what occurred upstream in Colorado and Wyoming. Officials in the two upstream states came to understand that it was simply a matter of time before existing water uses in their states would come under federal scrutiny. At the urging of Nebraska, and with the support and cooperation of the U.S. Department of the Interior (which contains the FWS and the Bureau of Reclamation), Wyoming and Colorado agreed to cooperate to address endangered species issues (Draft Environmental Impact Statement 2003).

Thus, the boundaries determining who directly participates in endangered species conflicts and their resolution dramatically changed. No longer would participation be confined to the owners and operators of local water projects, the federal agency licensing the projects, and the FWS. Rather, it would broaden to a negotiating group of higher-level authorities—state governors, the secretary of the interior, the FWS, and the Bureau of Reclamation, which had built major federal water projects in each state. These officials represented entities that together exercise considerable authority over water allocation and use across the entire river basin.

From 1994 to 1997, the Department of the Interior and the three states devised the Platte River Cooperative Agreement. The three states agreed that by 2010 to 2013 they would provide 130,000 to 150,000 acre-feet of water for habitat recovery, mitigate new water uses, and monitor species response to improved habitat conditions (Cooperative Agreement 1997). The increment of water is intended to substantially reduce the impact of existing water uses on the river. In addition, all new uses must also mitigate their effects. If the states abide by the agreement and provide the promised water, they will be deemed in compliance with the ESA and can avoid consultations on new and existing water uses. In other words, if new or existing water projects are in compliance with the agreement, they cannot have their licenses refused or revoked over endangered species. If, however, even one state fails to abide by its commitment, the entire agreement fails and endangered species consultations will be resumed. Furthermore, if after the agreement is in place for thirteen years and if the research suggests that the increment of water is insufficient to adequately protect the endangered species, the three states and the Department of the Interior will negotiate over an additional increment of water (Cooperative Agreement 1997).
Even though the Platte River Cooperative Agreement signaled a dramatic redrawing of boundaries and of who was allowed to directly participate in decision making, local entities and projects were not excluded, as we will see. Owners and developers of local water projects could opt out of the cooperative agreement and attempt to obtain licenses through the regular permitting process, and that would include endangered species consultations. Given the precedent set by the Nebraska hydropower dam, with the FERC demanding and receiving over half of the water of one of the power districts, local districts were unlikely to pursue this option. Rather, the participation of local entities was redirected to the state level. Local water users and project owners and operators had to abide by state requirements in order to have their projects covered by the cooperative agreement. Furthermore, local entities had to cooperate with state agencies and abide by state laws if the states were to realize the commitments they made in the cooperative agreement.

The boundary shift achieved some goals of Nebraska officials but also placed new challenges upon them. First, Nebraska is required to ensure that new water uses do not affect the Platte River. Second, it must ensure that the additional amounts of water that Colorado and Wyoming deliver to its borders are safely shepherded to the Big Bend region. The two issues are closely linked: if new water uses within the state are not effectively mitigated, they could easily consume the water that the other states make available for restoration of the river.

The major use of water in Nebraska is for agriculture. The major source of water for agriculture is groundwater that is hydrologically connected to the Platte River. Consequently, groundwater pumping must be carefully regulated if Nebraska is to meet its commitments under the cooperative agreement. Until very recently, Nebraska water law placed very few restrictions on groundwater use. Groundwater is governed by local natural resource districts. Districts, by law, have the authority to develop and administer groundwater management plans; however, no district straddling the Platte River has chosen to do so. In effect, then, overlying landowners may pump as much groundwater as they can put to beneficial use on their lands. The only requirement is that they obtain state well permits and do not violate well spacing rules (Mossman 1996).

Agricultural interests have actively and effectively resisted state-level efforts to require natural resource districts to develop and implement
groundwater management plans that would limit the effects of pumping on surface water flows (Mossman 1996). Farmers believe they are being asked to bear a disproportionate share of the burden of protecting endangered species and that in so doing their livelihoods will be undermined. Furthermore, they resist granting the state additional powers to regulate groundwater, a resource that historically has been under local control. Agricultural interests have attempted to avoid becoming participants in protecting endangered species. By all these means, they have worked to opt out of the process and to prevent the boundaries of water conservation and habitat protection from being drawn around them.

As a result of this strong opposition from agricultural groups, it took the Nebraska legislature, governor, and several citizen task forces almost a decade to develop and adopt legislation requiring integrated water resources management by natural resource districts and the Department of Natural Resources in over-appropriated basins. Natural resource districts, which have authority over groundwater, now must adopt regulations to limit the effects of groundwater pumping on surface water flows, and the Nebraska Department of Natural Resources, which has authority over surface water, must adopt conservation and best management practices for surface water users (Mossman 1996; Aiken 2004). Following the passage of legislation in 2004 granting the Department of Natural Resources the authority to declare over-appropriated basins, the department declared the Platte River upstream of the Big Bend region as over-appropriated. The immediate effect was to forbid the development of new wells until a management plan for the area was adopted (Nemec 2005).

The Platte River watershed consists of nested sets of overlapping boundaries with different groups of participants central to each. States and federal agencies are the primary participants in providing for endangered species recovery; however, such efforts rest on the intricate relations between states and local water users. The ability of states to deliver the first increment of water and to protect river flows from new uses depends centrally on their ability to persuade, cajole, entice, and coerce local water users to change how they acquire and use water. Although local water users and environmental groups have seats at the Platte River governing table, as discussed below, their authority relative to state and federal representatives is highly circumscribed. Rather than being full and active participants at the watershed level, they are full and active participants at the state level, where they participate
in legislative hearings, agency rule makings, blue ribbon panels, and court cases, and where as citizens they vote.

The reluctance of agricultural interests in Nebraska to embrace close regulation of groundwater pumping and the cause of endangered species certainly appears to vindicate a healthy suspicion of local, place-based interests. As argued earlier in the chapter, local interests may focus on economic activities to the exclusion of a variety of other legitimate values. That, however, would be too simple a reading of this case. At various times, actors at a variety of scales—including federal agencies, state governments, and interest groups—supported, were indifferent to, and opposed addressing endangered species issues. FERC, for example, a federal agency charged with abiding by the ESA, only reluctantly addressed endangered species issues after it lost a court case brought by the Whooping Crane Trust, a small nonprofit organization located in the Big Bend region of Nebraska (Aiken 1999). The Whooping Crane Trust was created when Nebraska sued two federal agencies for funding and licensing a large surface water project in Wyoming that would have siphoned off a large volume of water from the North Platte, negatively affecting crane habitat. Nebraska successfully claimed that the agencies neglected the consultation requirements of the ESA (Aiken 1999). Federal, state, and local entities often represent a variety of interests and values—interests and values that change over time.

Ultimately, the question of boundaries is not so much either/or—either everyone who takes an interest in a watershed participates or only local and directly affected interests participate. Nor is it safe to assume which values will be best realized by governments or groups organized at which scales. Instead, as we see in the Platte River Basin, the question of boundaries is primarily a question of how: how to accommodate the many, varied, and conflicting interests present in a watershed. Most often, in the United States, it has been a process of defining multiple decision-making arenas that overlap one another and that at varying times complement and at other times conflict with one another.

**Decision-Making Processes**

The decision-making processes established by the cooperative agreement are also varied and contingent: they depend on who is making the decision and the level of conflict involved. The agreement creates a governance
committee that reviews, directs, and provides oversight to the activities undertaken as part of the cooperative agreement. The governance committee consists of a representative from each state, an FWS representative, a Bureau of Reclamation (BOR) representative, two environmental representatives, and three members representing specific water interests, for a total of ten representatives. A quorum is met with the representatives of the FWS, BOR, each state, and two of the other representatives. Thus, although a quorum is possible without a majority of the water and environmental interests present, a quorum is impossible without all of the federal and state representatives present.

Informal consensus is the preferred decision-making mechanism, although a voting process may be used if consensus cannot be reached (Cooperative Agreement 1997, 9–10). The governance committee’s bylaws state: “The Governance Committee will attempt to operate by informal consensus. Votes will be taken when appropriate” (Draft Platte River Recovery Implementation Program, 2003, Attachment 6, 3). Yet, even voting must achieve near-unanimity: nine of the ten representatives, including all of the federal and state representatives, must vote in the affirmative for the governance committee to act.

Furthermore, the governance committee is allowed to establish specialized committees to carry out specific duties. For instance, a financial management committee provides oversight for funds provided to the governance committee, contracts engaged in by the governance committee, and the payment of expenses. It consists of seven representatives, one for each state and federal agency, one for water interests, and one for environmental interests. A quorum consists of the representatives from the states and federal agencies. Consensus is the only decision rule. If consensus on an issue is not reached, the issue is passed along to the governance committee with a complete report outlining the different viewpoints on unresolved issues (Cooperative Agreement, 1997, 2–4, Milestones).

These decision-making rules appear designed to encourage the participants to identify and process differences and conflicts before coming to a collective decision. Action by a minority is avoided, but the federal agencies and states can ensure through their veto capabilities that they do not have to take actions that would violate laws that they are bound to uphold.
Accountability

Earlier we asked how, and how should, new forms of watershed governance fit within the existing political system and all of its familiar accountability mechanisms. The Platte River Cooperative Agreement demonstrates the relevance of this question. The agreement exemplifies the new forms of watershed governance that do not easily or readily fit within familiar accountability mechanisms.

Often when states engage in cooperative undertakings to address shared problems, they develop compacts, which are enforceable agreements recognized and protected under the U.S. Constitution. For states to engage in a compact, they must first receive permission from Congress. Once a compact is negotiated, each participating state’s legislature must ratify it, as must Congress (Zimmerman 2002). States may enforce compacts by bringing their grievances before the U.S. Supreme Court—the court of original jurisdiction in addressing conflicts among states. Compacts are thus buttressed by familiar accountability mechanisms—multiple legislative approval points and judicial oversight.

The Platte River Cooperative Agreement, however, is not a compact. It is a purely voluntary arrangement among the states. Any party to it may withdraw at any point. The legislatures of the three states do not have to ratify the agreement, nor does Congress. Yet the states have promised considerable sums of water and money, have committed to future projects and activities that will provide additional volumes of water for the river, and have committed themselves to working for new state water laws and codes that will allow the realization of their commitments. Furthermore, the governance committee and its specialized committees that oversee the agreement and that have the authority to commit states and federal agencies to engage in various activities are populated by appointed officials and citizens. Although the appointed officials are at least accountable to elected officials who appoint them, citizen appointees are accountable to no one save the interest groups they represent. At first glance, all of the familiar accountability mechanisms appear to be missing. Is it possible to hold the parties to the agreement accountable?

If we view the agreement through the lens of Weber’s (2003) argument that accountability occurs at different levels and along multiple dimensions through a variety of mechanisms, and not just through the lens of
traditional forms of accountability, then we see an arrangement laced with accountability mechanisms. The parties to the agreement—federal agencies and states—utilize multiple methods for holding one another to commitments made. Furthermore, the water users, citizens, and taxpayers subject to the agreement and to paying for it have access to multiple accountability mechanisms, some familiar, some not.

First, the parties to the agreement bound themselves tightly together. If the states abide by the agreement and if they provide the promised water, they will be deemed in compliance with the ESA and they can avoid consultations on new and existing water uses, which to this point have resulted in new uses that require federal permits disallowed and existing uses threatened. Thus, the states and the major water users in the states have much to gain from abiding by the agreement. If, however, the agreement is not followed, if even one state fails to abide by its commitment, the entire agreement fails and endangered species consultations will be resumed. The parties to the agreement either succeed or fail together.

Second, the states established readily measured goals tied to specific time lines in order to track their overall progress and to detect whether a state was failing in its commitment. In addition, to ensure that the water committed by the states does not simply get absorbed through new uses, each state is required to mitigate the effects on the river of all new surface and groundwater projects. Wyoming and Colorado argue that their state laws require new users to cover their impacts. And they agreed to ensure that outcome. If it were discovered that new uses were not adequately covered, the states committed to providing additional amounts of water that they have under their control (Draft Recovery Implementation Program 2003). Nebraska, with the passage of major water legislation in 2004, can make the same commitment. Its water laws require that all new water uses are mitigated.

In an environment with such high stakes and with an appreciable level of uncertainty, monitoring water users’ actions and the natural system becomes critical. The cooperative agreement contains four major monitoring provisions. First, each state is required to provide data on water use to the governance committee several times per year. The data are to include baseline flows of the river, existing water uses, new water uses, and how new uses were covered. Each state also provides a final year-end water accounting. Second, an employee of the FWS acts as a water accounting manager.
The accounting manager, working with each of the states and water project operators, monitors river flows and directs the release of water at times and places to best assist in the protection and recovery of species. The accounting manager is also required to report to the governance committee multiple times throughout the year. Third, the implementation plan establishes a relatively sophisticated biological response monitoring program targeted at the Big Bend region of the Platte River. Its purpose is to monitor the response of endangered species to determine whether the program is achieving its goals of protecting and recovering the species. Information from the biological monitoring program is provided to the water accounts manager to inform his water release decisions. Fourth, the information is supplied to the governance committee to be used to modify implementation plans. Overall, the implementation plan envisions a relatively sophisticated monitoring system that requires the participation of all participants. The states monitor their own water users, an accounting manager monitors the states, a group of scientists monitors the biological responses of the species, and the governance committee monitors each of the individual monitoring mechanisms. The monitoring plan holds the potential to provide participants with sufficient information to determine whether all are following through with their commitments.

Furthermore, the parties to the agreement hold one another accountable through the decision process, much as Weber (2003) argued concerning small-scale watershed collaboratives. The preferred decision rule is consensus, which requires discussion, deliberation, and the exchange of ideas. If consensus cannot be reached, then voting is allowed, but it requires that all of the state and federal representatives, and most of the water and environmental representatives, vote in the affirmative in order to reach a binding decision. These decision rules prevent bare majorities and single holdouts from dominating the process. The combination of decision rules allows the participants to hold one another to account without holding one another hostage.

The participants to the agreement may hold one another accountable for decisions and actions, but what about larger forms of democratic accountability? Can those who are not direct parties to the agreement exercise some forms of accountability? The answer is yes, although these forms tend to be weighted more heavily toward legal mechanisms and less toward political, hierarchical, or professional mechanisms. The federal agencies and
states remain bound by federal and state laws. If the governance committee makes decisions that appear to violate those laws, citizens may invoke judicial review. Also, at the behest of local water users, the governance committee agreed to limit its powers. The agreement specifically forbids the exercise of certain types of authorities that the states, under other circumstances, are allowed to exercise. For instance, states are not allowed to exercise their powers of eminent domain in order to condemn private property or water rights. All acquisitions of private property and water rights are to be from voluntary sellers. Thus, for citizens, water users, taxpayers, and property owners, their first and most prominent forms of accountability are legal.5

The creation of the Platte River Cooperative Agreement and its implementing governance structure provides an enlightening glimpse of the many and difficult political decisions that must be made in devising workable and accountable institutional arrangements for governing watersheds. At no time did the authors of the agreement and governance structure engage in “either/or crafting,” that is, either consensus or majority rule, either all interests or local interests, either political accountability or legal accountability, and so forth. Rather, the authors of the agreement developed multiple ways of addressing boundaries, decision making, and accountability, typically with a primary approach buttressed by secondary approaches.

No doubt, there is plenty to criticize concerning the Platte River Cooperative Agreement. It is complex in its governing structure and its science, it is incremental and effects only gradual change, it is slow to make decisions, it provides state governments and federal agencies with disproportionate influence, it does not provide for a single decision maker, and it fails to take advantage of some traditional political accountability mechanisms, such as allowing citizens or state legislatures to vote on the agreement.

It is certainly all of those things, but all of those things must be understood in context. Before the agreement, all new water projects were shelved or substantially modified. Before the agreement, existing water projects were subject to substantial revision as they came up for re-licensing. If the agreement fails, endangered species protection in the Platte River Basin will revert to business as usual: a project-by-project battle to protect endangered species. Given that context, it is understandable that its designers view it as a more effective, efficient, equitable, and adaptive approach than what preceded it and what is likely to occur if it fails.
CONCLUSION

By now, it should be apparent that there are multiple ways of defining who matters in decision making, how collective decisions should be made, and how decision makers should be held accountable. Furthermore, there is no one best way to define who should matter or how decision making or accountability should be realized. As is so often the case in politics, it depends. It depends on the issues, their causes, their impacts, and possible solutions, and how those things are distributed across space, time, and people. In practice as well as in theory, multiple answers are available to these issues, and many different choices have been made.

The answers are invariably imperfect. They involve trade-offs. Using a more expansive notion of who matters risks undervaluing local interests; privileging local interests may neglect broader values. Consequently, the choices people make in watersheds are contested and challenged.

Furthermore, watershed settings are dynamic—economic activity, demography, culture values, and understandings of human-nature interactions change, and at least some of today’s choices will not make sense in future circumstances and will be contested and challenged anew. Watershed settings in the real world also have histories. In choosing among the imperfect institutional alternatives available, people do not begin from scratch. Ordinarily, they try to accommodate new circumstances, and realize more pressing values, by adding to existing arrangements and then figuring out how to make it all work in terms of efficiency, effectiveness, and fairness.

These arguments are pragmatic, but they are not merely pragmatic inductions derived from numerous watershed case studies. They are also analytical, deducible from some basic considerations of governance and management in a watershed or other setting. The next chapter presents such an analysis.

NOTES

1. See Milon, Kiker, and Lee 1998 for an account of consensus results in the Everglades Restoration Project; and see Coglianese 1999 for an evaluation of consensus decision making used by the EPA to develop the report on Enterprise for the Environment.

2. As Kagan (1997, 873) states, “The contemporary search for collaboration often springs from a desperate effort to hold at bay the costly and alienating delays
and deadlocks that spring from litigation—litigation that in turn springs from the complexity of our legal system.”

3. As Scharpf (1997, 174) notes, proponents of integrated watershed management are not the only ones enamored with hierarchical direction: “[S]ubstantive policy research . . . is characterized by a strong elective affinity to hierarchical coordination. Policy recommendations are characteristically addressed to an idealized ‘policymaker’ with the assumed capacity to overrule the preferences of other actors, regardless of any conflicting interests and perceptions. . . . [E]conomic theorists following Pigou who were impressed with the inefficiency of market failures have opted for hierarchical state intervention in the economy to correct negative externalities; and transaction-cost economists following Coase who were impressed with the difficulties of negotiated agreements have opted for vertical integration in hierarchically organized firms to avoid the high costs of contracting under conditions of uncertainty and opportunism. From all of these perspectives, the focus is on the social benefits that can in principle be achieved through hierarchical coordination rather than on the contextual preconditions for the effective exercise of hierarchical authority.”

4. In Wyoming, the Grayrocks Dam and reservoir were substantially modified and the owners of the proposed Deer Creek reservoir were required to purchase and manage critical habitat as a condition of building it; in Colorado, the Wildcat and Narrows irrigation projects have been deferred, the Two Forks reservoir that was to supply water to the Denver metropolitan area was stopped, and numerous special-use permits issued by the U.S. Forest Service that allowed communities to impound and divert water on Forest Service land were modified; in Nebraska, the Little Blue/Catherland irrigation project, the Perkins County Canal, the Enders irrigation project, the Prairie Bend I and II irrigation projects, and the Landmark irrigation project were all stopped (Aikens 1999, 128–137).

5. Legal mechanisms are not the only ones that may be exercised. At the request of numerous citizens and interest groups, the governance committee, in cooperation with the Department of the Interior, commissioned a review by the National Research Council of the science used to develop the agreement. The National Research Council review supported the science developed thus far and urged that it be more broadly developed. Thus, professional review of data and modeling was exercised.