



ACR Environment and Public Policy Section Newsletter

DECEMBER 2006

THE KEYSTONE CONFERENCE

CONSOLIDATING OUR COLLECTIVE WISDOM: BEST COUNSEL AND ADVICE TO THE NEXT GENERATION

by Carolyn Penny

Imagine, for a moment, facilitating the facilitators.

One hundred and six senior mediators and facilitators, including a number of EPP practitioners, gathered at Keystone, Colorado October 8 - 11, 2006. The gathering, titled "Consolidating Our Collective Wisdom: Best Counsel and Advice to the Next Generation," was hosted by the Keystone Center and Mediate.com, with particular involvement by Peter Adler, Robert Benjamin and Jim Melamed.

Each of the conference participants had at least 20 years of conflict resolution experience. There were three purposes to the gathering of practitioners and thinkers: to take

stock of the conflict resolution field over the past 30 years, to assess the current status of the field including strengths and weaknesses and to provide guidance to the next generation of practitioners.

The agenda included discussion on whether conflict resolution is a field, presentations on expected mega-trends, touching tributes to colleagues who have recently died, dialogue on propositions and, not surprisingly among process professionals, significant engagement on the meeting process itself. Senior EPP practitioners present included: Peter Adler, Gail Bingham, Juliana Birkhoff, Greg Bourne, Susan Carpenter, Cindy Cook, Bill Drake, Michael Elliott, Kirk Emerson, Tom Fee, Robert Fisher, Ann Gosline, Bill Hartgering, John Lande, Suzanne Orenstein, Carolyn Penny, Jonathan Reitman, Alice Shorett, Glenn Sigurdson and Susanne Terry.

One theme of conference discussion centered on a need to engage nationally and internationally. The following statement was generated and signed by many conference attendees:

Given that the world is confronted with real and perceived threats from several international arenas we, the undersigned, urge that citizens of our nations insist their elected and appointed government officials immediately engage in honest, direct and unconditional negotiations with all authorities and powers who can resolve these pending crises in ways that are equitable and practical for all concerned without sacrifice to national sovereignty or security. As citizens of the world and as professional negotiators and mediators we urge that proven conflict resolution processes be employed now.

The website for this effort is www.concernedmediators.org.

Other topics of substantial conversation included certification, the relationship of conflict resolution to the legal profession, the use of technology and the need for practical

research. The conference generated a number of propositions for consideration. These propositions, as well as conference materials and resulting reports can be found at www.mediate.com/Keystone. For the full final report, click on the “Keystone Conference Resources” hyperlink, and then on “Keystone Conference Final Report.”

As discussed in the conference summary and consistent with the conference title, conference participants identified ten challenges for the next generation:

- Stop dithering and get organized (or not.)
- Put the house in order.
- Influence the world.
- Step up the quest to diversify.
- Reaffirm the fundamentals of mediation.
- Expand the intellectual boundaries of mediation.
- Utilize new technologies.
- Encourage practical research.
- Emphasize cultural competencies.
- Use our own procedures.

In their summary report, Peter Adler, Robert Benjamin and Jim Melamed captured an overall sense of the conference, “Still, in many ways the meeting reflected the state of the field today - inspirational, fragmented,

confused, passionately idealistic, self-absorbed, overly ‘mediator-centric,’ eager to have an aggregated and collective impact yet lacking in a clear vision or practical strategy for accomplishing that. The conference seemed to mirror the state of things in 2006: a vast reservoir of collective practical experience, lofty ambitions and the continuing need to meet together, tell stories, engage the questions of the moment and simply learn from each other. In this way, above all, the meeting was encouraging, reaffirming, and successful for many.”

Carolyn Penny is Co-Director of Common Ground: Center for Cooperative Solutions at University of California at Davis Extension, a 20-year conflict resolution practitioner, a member of the EPP Leadership Council, and reachable at clpenny@ucdavis.edu.

EPP ENDORSES ADMINISTRATION EFFORTS IN ECR

NEW FEDERAL ECR POLICY TAKING OFF

by Kirk Emerson

On November 28, 2005, Joshua Bolten, then Director of the Office of Management and Budget (OMB), and James Connaughton,

Chairman of the President's Council on Environmental Quality (CEQ), issued a policy memorandum on environmental conflict resolution (ECR). This joint policy statement directs all federal departments and most independent agencies to increase the effective use of ECR and their institutional capacity for collaborative problem solving. It includes a definition of ECR and sets forth “Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving.” (See below for excerpts from the memorandum.) It also includes a compilation of mechanisms and strategies that may be used to achieve the stated policy objectives.

This policy direction developed from a request in August 2003 by Chairman Connaughton to the U.S. Institute for Environmental Conflict Resolution to work with senior staff of key federal departments and agencies to develop basic ECR principles and recommended guidance on ECR. Over the next two years, the U.S. Institute worked collaboratively with senior staff from the Office of Management and Budget, the Environmental Protection Agency, the Federal Energy Regulatory Commission, the Council on Environmental Quality and the Departments of Agriculture, Army, Commerce, Defense, Energy, Homeland

Security, Interior, Justice, Navy and Transportation to develop basic principles and draft guidance.

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year, periodic leadership meetings and quarterly interdepartmental senior staff meetings.

After the memo was issued, departments and agencies designated ECR points of contact at the Deputy Assistant Secretary level to take responsibility for the annual reporting and to attend the quarterly forum. Many of these contacts and their senior staff have also been participating in informal monthly discussions on ECR performance evaluation. A synthesis of the annual reports will be prepared and presented at the winter forum meeting scheduled for February.

Kirk Emerson is the Director of the U.S. Institute of Environmental Conflict Resolution of the Morris K. Udall Foundation, a federal agency created to continue Congressman Udall's legacy of civility, integrity, and consensus.

EXCERPTS FROM THE OMB-CEQ ECR POLICY MEMO ISSUED NOVEMBER 28, 2005

Environmental Conflict Resolution Defined

Under this policy, Environmental Conflict Resolution (ECR) is defined as third-party assisted conflict resolution and collaborative problem solving in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and land use. The term "ECR" encompasses a range of assisted negotiation processes and applications. These processes directly engage affected interests and agency decision makers in conflict resolution and collaborative problem solving. Multi-issue, multi-party environmental disputes or controversies often take place in high conflict and low trust settings, where the assistance of impartial facilitators or mediators can be instrumental to reaching agreement and resolution. Such disputes range broadly from administrative adjudicatory disputes to civil judicial disputes, policy/rule disputes, intra- and interagency disputes, as well as disputes with non-federal persons/entities. ECR processes can be applied during a policy development or planning process, or in the context of

rulemaking, administrative decision making, enforcement, or litigation and can include conflicts between federal, state, local, tribal, public interest organizations, citizens groups and business and industry where a federal agency has ultimate responsibility for decision-making.

From OMB-CEQ ECR Policy Memo issued November 28, 2005.

Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving

Informed Commitment

Confirm willingness and availability of appropriate agency leadership and staff at all levels to commit to principles of engagement; ensure commitment to participate in good faith with open mindset to new perspectives.

Balanced, Voluntary Representation

Ensure balanced, voluntary inclusion of affected/concerned interests; all parties should be willing and able to participate and select their own representatives.

Group Autonomy

Engage with all participants in developing and governing process; including choice of consensus-based decision rules; seek

assistance as needed from impartial facilitator/mediator selected by and accountable to all parties.

Informed Process

Seek agreement on how to share, test and apply relevant information (scientific, cultural, technical, etc.) among participants; ensure relevant information is accessible and understandable by all participants.

Accountability

Participate in process directly, fully and in good faith; be accountable to the process, all participants and the public.

Openness

Ensure all participants and public are fully informed in a timely manner of the purpose and objectives of process; communicate agency authorities, requirements and constraints; uphold confidentiality rules and agreements as required for particular proceedings.

Timeliness

Ensure timely decisions and outcomes.

Implementation

Ensure decisions are implementable; parties should commit to identify roles and responsibilities necessary to implement

agreement; parties should agree in advance on the consequences of a party being unable to provide necessary resources or implement agreement; ensure parties will take steps to implement and obtain resources necessary to agreement.

EPP SECTION SUPPORTS ECR POLICY MEMORANDUM

by Cindy Cook and Michael Elliott

At the ACR EPP Section meeting in June 2006, members discussed the OMB and CEQ's policy memorandum on environmental conflict resolution (described above in an article by Kirk Emerson). EPP members agreed that the memo was based on sound collaboration and consensus building definitions and principles.

On November 9, 2006 we sent all EPP members a memorandum that outlined activities that you can undertake to help advance the joint policy statement and the use of ECR in federal government. Following is an excerpt of that memorandum. If you would like the full text sent to you, please email your request to Mary Orton, Chair of the EPP Communications Committee at mary@maryorton.com.

Use the Memo for Outreach and Education

We encourage you to send the ECR memo to your agency contacts and clients. Use the memo as part of (or as entrée to) talking with your agency contacts and others about ECR. You could also provide the ECR policy memo routinely to key people in collaborative and consensus seeking processes.

Use the Memo to Initiate and Organize Consulting and Capacity Building

We encourage EPP members to use the memo to increase agency staff knowledge and skills to participate in and lead collaborations, to develop coaching relationships with government officials on dispute resolution strategies and to help agency staff learn about environmental conflict resolution success stories and concepts.

Integrate the Memo into Training Programs

Along with coaching and consulting, we encourage you to integrate the ECR policy memo into your training programs and to provide federal trainees with a copy of the memo.

Include the Principles as Part of Your Contracts for Work

Finally, we encourage EPP members to include the principles set forth in the policy memo as part of their contracts.

If you have ideas as to how our Section can use the policy memo as a vehicle for furthering the use of ECR in public processes, please let us know. We look forward to an ongoing conversation.

Cindy Cook and Michael Elliott are the co-chairs of the Environmental and Public Policy Section of the Association of Conflict Resolution. They can be reached at ccook@adamantaccord.com and michael.elliott@coa.gatech.edu.

EPP 2006 CONFERENCE FOLLOW-UP

AN INTRODUCTION TO DIALOGUE, DELIBERATION & DELIBERATIVE DEMOCRACY

by Lisa Bedinger

The EPP Section's June 2006 conference provided an introduction to the world of Deliberative Democracy for many of the practitioners in attendance. Many EPP Section members found that their work has a

strong overlap and commonalities with the work of practitioners in the dialogue and deliberation (D&D) field.

The D&D field is even newer than the public policy conflict resolution field. The first national website was created and the first national conference was held since 2000. The National Coalition for Dialogue & Deliberation (www.ncdd.org) has been one of the strongest collaborating forces and most comprehensive resources in the development of the field thus far.

What defines the parameters of D&D field? Practitioners are particularly interested in human interaction that is "high stakes, high risk and/or high benefit" (Glock-Grueneich, 2006), as well as theory and methodology that increases the likelihood of desired outcomes and decreases the likelihood of unwanted outcomes in these circumstances.

Dialogue and deliberation are often seen as distinct ways of working with people – usually in groups, either in person or online – with different goals for each type of interaction. Dialogue is a constructive conversation in which exploration can be the primary goal and in which reaching an agreement may not be important or useful. It is a type of human interaction in which participants bring an

intention to understand and learn. This definition assumes that although goals and objectives may be achieved, learning takes priority over task-orientation. Dialogue can be a foundation from which a variety of outcomes can become possible.

Deliberation is more likely to carry an assumption of goal orientation. It is a type of human interaction in which participants bring an intention to critically explore avenues of thinking and action. Often the goal of deliberation is for a group of citizens or stakeholders to weigh potential courses of action and to create shared recommendations or a common course of action.

One perspective inherent in the theory of dialogue and deliberation is that ordinary citizens have important thinking to offer and each D&D methodology outlines a process to elicit this thinking. Some also include methodologies to act on this thinking. A sometimes unstated assumption for a large section of the field is that there is a crisis in how democracy currently functions in the United States. This is where deliberative democracy enters the picture. Ultimately, a goal of deliberative democracy is to increase citizen engagement in community, diversity and public policy issues through collaborative dialogue in order to affect social change.

To find out more about deliberative democracy, an excellent introductory resource is “Public Deliberation: A Manager’s Guide to Citizen Engagement,” which can be found at <http://www.businessofgovernment.org/pdfs/LukensmeyerReport.pdf>. Another useful resource is <http://www.deliberative-democracy.net/>.

Lisa Bedinger is a dialogue practitioner who specializes in event design and has a passion for facilitating dialogues on diversity issues. Lisa is a graduate of Woodbury College’s masters in mediation and applied conflict studies. Contact her at bedingercr@verizon.net.

SECTION NEWS

EPP LEADERSHIP COUNCIL

ELECTION RESULTS

Congratulations to the following members whom you recently elected as At-Large Members of the EPP Leadership Council:

- Nicholas Dewar
- Steve Garon
- Bryant J. Kuechle
- Carolyn Penny

They join these fine folks on the newly formed Leadership Council:

- Juliana Birkhoff, Co-Chair, Diversity Mentoring Project
- Cindy Cook, EPP Co-Chair, 2005-2007
- Michael Elliott, EPP Co-Chair, 2006-2008
- John Jostes, Acting Chair, Conference Planning Committee
- Harry Manasewich, Chair, Advanced Practitioner Committee
- Mary Orton, Chair, Communications Committee
- Mary Skelton Roberts, Co-Chair, Diversity Mentoring Project
- John Stephens, Immediate Past Co-Chair.

Many thanks to all of you for serving!

TRANSITIONS

This is another in an occasional series of stories about trends in the conflict resolution field. The present topic is leadership transition – from the founders to a new generation of leaders – in some of the major environmental and public policy dispute resolution organizations. In addition to discussing the hows and whys of the transition, we ask the senior leaders their thoughts about how far we have come as a profession and what they see for

our future as environmental-public policy mediation practitioners.

Last year, we looked at a 14-year-old East Coast organization founded by one person with a single vision. This year, we examine a 28-year-old Rocky Mountain organization founded by four partners with a mutual vision. By sharing the experiences these organizations underwent, we hope to assist others as they embark upon similar transitions.

CDR ASSOCIATES IN TRANSITION

By Forsyth P. Kineon

History

CDR Associates was founded in 1978 to make a difference in the worldwide cause of peace. Today, the mission of the organization states that CDR Associates is “dedicated to transforming difficult decisions and intractable conflicts into opportunities for creativity, mutual gains and positive change.”

Four people founded CDR: Mary Margaret Golten, Bernard Mayer, Susan Widau and Chris Moore. Later a fifth partner, Louise Smart, was added. The Managing Partner position rotated among the partners and decisions were made by consensus.

According to Mary Margaret Golten, while

this collaborative structure might not work for other organizations, it has worked well for CDR. She notes that one of the challenges to this system is knowing when a decision needs consensus versus being made by one individual.

According to Mary Margaret, CDR has experienced several management transitions. The first occurred more than ten years ago when the partners agreed that one Managing Partner should make daily decisions. Previously, the partners involved the entire staff in most decisions, but retained final decision-making authority. The partners and Managing Partner were committed, throughout this period to honor the consensus process, which has been a cornerstone of their management style since the firm began.

A more significant transition occurred about three years ago when the partners decided to transfer administrative authority to Suzanne Ghais as Director. The existing small Management Team, made up of both founding employees and newer employees continued under Suzanne's leadership.

In the transition to a Director, CDR tested a new method of management in which the leader represents the organization, but is not

the most senior or the most knowledgeable practitioner. Instead, they are the best manager. This system is loosely based upon the work of Jeswald Salacuse, an affiliate of the Harvard Negotiation project, author of *Leading leaders: How to manage smart, talented, rich and powerful people.* Salacuse states that a good practitioner might not be a good manager and does not have to be in management. According to Suzanne, the system change at CDR seems to have helped the organization function better and created a dispute system design of its own. The Director represents the organization when there needs to be one voice, as opposed to CDR being represented solely through good practices. In CDR's case, the Director is also a practitioner, so the administrative job is additional to professional responsibilities including recruitment and training.

CDR Today

Suzanne resigned this summer to spend more time with her children and the organization has returned to its roots of a management team; the old guard and the new talent are managing together. Program staff is comprised of half founders and half new generation practitioners. CDR's mission statement, emphasizing societal change, has been maintained to this day from the time of

CDR's founding and is embraced by both old and new practitioners.

The Future of EPP

Both Suzanne and Mary Margaret were asked about the future of the field of environmental and public policy mediation. According to Suzanne, federal and state government funding for conflict resolution is decreasing. Therefore, partnerships between public and private entities have grown more important, including in the field of environment and public policy.

Both Suzanne and Mary Margaret believe that practitioners need to be specialized, with a solid background in a subject area such as water issues or transportation. They also expressed a concern that the field has an overabundance of practitioners. Consequently, securing regular workflow for a firm is much harder.

Mary Margaret and Suzanne both said, "Nothing is more powerful in this field than building relationships." Practitioners need to network in order to establish new business, stay current in the field and establish a rapport of trust.

GETTING STARTED IN THE FIELD

PASSION FOR THE PROCESS

by Christine Gyovai

I was 19, living in northern California and involved in a work exchange program at the Heartwood Institute when I took my first mediation training course. After an active listening exercise with a close friend following the training, I experienced how powerful it was to *really* feel heard. I was hooked from that point on.

The following year I moved to the central coast of California and enrolled in a mediation certification program at the Institute for the Study of Alternative Dispute Resolution (ISADR) at Humboldt State University where I focused on public policy dispute resolution. I became involved with our local Community Mediation Center as a volunteer and later as a co-instructor for a training for at-risk youth in conflict resolution and anger management. In addition, I worked with an environmental mediator, Melody Kreimes, in San Luis Obispo, California.

Although my background was in environmental studies and teaching environmental education, I was considering pursuing environmental conflict resolution

(ECR) for my graduate studies. As I was completing the program at ISADR, I took a training with Susan Carpenter on Public Policy Dispute Resolution. I asked Susan if she thought it was possible to be involved in ECR work and still maintain my passion as an activist. Susan said, “Be an advocate for the process, not the outcome.” That statement helped me see the power that collaborative processes have in elevating people beyond competitive self-interest and toward an outcome that can be for greater good for all.

After completing the ISADR program, I ultimately enrolled in the graduate program at the University of Virginia in Urban and Environmental Planning, where I worked with the Institute for Environmental Negotiation (IEN) as a graduate associate for 2½ years. I was particularly interested in IEN’s community collaboration work. Today, I work to integrate my graduate degree in environmental planning and my ECR background to work on on-the-ground restoration tools with community members. I am interested in continuing to work with citizens to help them articulate a vision for a more sustainable community, and then find the tools and resources to make that vision a reality.

Currently, I am the principal of Dialogue and Design Associates, my own consulting firm. In addition to my collaborative problem-solving work with IEN, where I work on projects including watershed planning, contaminated site reuse planning and strategic planning, I am involved in several other projects including editing a book on environmental architecture called *Fractal Architecture: Design for Sustainability*, volunteering at a community mediation center in Charlottesville and teaching classes on ecological design. In one class, “Healing the Land, Healing Ourselves,” the class is restoring an urban woodland site and integrating medicinal plants into the restoration. The students are developing the design, learning how to clean up the site and doing the restoration work utilizing permaculture techniques. Permaculture is a system of ecological design that focuses on creating sustainable homes, neighborhoods and communities, and it can involve anything from consensus building to growing one’s own food to developing local networks for exchange of currencies, and it has been a central tool in my work around sustainability (for more information, see the website: <http://attra.ncat.org/attra-pub/perma.html>). Currently, my husband, Reed Muehlman, and I are designing a straw bale house, our own project in sustainability in central Virginia.

Christine Gyovai is a facilitator and environmental planner based in Charlottesville, Virginia, where she is the principal of Dialogue and Design Associates. She can be reached at christineg@virginia.edu.

TRENDS

MAXWELL SCHOOL OF SYRACUSE UNIVERSITY HOLDS CONFERENCE ON COLLABORATIVE PUBLIC MANAGEMENT

How does collaborative public management change what it means to be a leader? The Maxwell School of Citizenship and Public Affairs at Syracuse University (SU) recently sponsored a three-day conference in Washington, DC, to consider this topic and its implications for the future of public administration.

The conference was the kick-off event for the Maxwell School's new "Collaborative Governance Initiative" sponsored by the Program for the Analysis and Resolution of Conflicts, co-directed by Professor Rosemary O'Leary and Catherine Gerard. The initiative is aimed at promoting new knowledge and understanding about collaborative public management, deliberative democracy, and civic engagement.

Forty scholars and practitioners gathered at SU's Greenberg House in Washington to examine the most current knowledge about collaborative public management and to weigh its implications for teaching and research. Participants included a range of creative and innovative researchers and professionals whose jobs require intense collaboration.

According to conference organizer, Rosemary O'Leary, the world of public administration has changed dramatically in recent years and the Maxwell School organized this conference as part of its commitment to meeting the resulting challenges. "Technological innovations such as the Internet, globalism that permits us to outsource anywhere abroad, devolution that may bring intergovernmental conflict, and new ideas from network theory have changed the business of government. Public managers now find themselves not as unitary leaders of unitary organizations. Instead, they find themselves convening, facilitating, negotiating, mediating, and collaborating across boundaries."

Conference attendees concluded that the prevalence of network management, contracting out and greater collaboration with citizens have altered the dynamics of public

administration. Future executives must master skills in negotiation, bargaining, facilitation, conflict resolution, collaborative problem-solving and consensus building to effectively manage in this evolving environment. Additionally, education programs should incorporate more service learning and connection with practitioners to create direct feedback loops that encourage the use of best practices and direct further research. Georgetown University Press will publish papers from the conference as a book, as well as in special issues of *Public Administration Review*, *International Public Management Journal*, and *Journal of Policy Analysis and Management*, which will focus on this growing field of research.

Thank you to the Maxwell School of Syracuse University for contributing this article.

NEWS YOU CAN USE

EPP MEMBERS PUBLISH REPORT ON FACILITATING BROWNFIELDS PROJECTS

EPA provided support to a dozen brownfields projects across the country to find out if facilitation works. The answer is a resounding “yes.” The experiences at the pilot sites are described in “Evaluating the U.S. Environmental Protection Agency’s Brownfields Facilitation Pilot Projects,” by

EPP Co-Chair Michael Elliott and EPP member Greg Bourne. The report examines the impact of facilitation and facilitated collaborative decision-making on brownfields assessment and redevelopment initiatives.

The report evaluates EPA-promoted facilitation efforts in communities with difficult issues to resolve. As a comparison, it also evaluates facilitation efforts initiated by communities that identified the need for and sought out facilitator support on their own. The evaluation assesses whether, and under what conditions, facilitation improved the decision-making processes associated with the 12 nationally supported facilitations and 12 locally initiated facilitations.

The full report is found at http://www.epa.gov/brownfields/tools/tti_fac_support.htm.

RESEARCH CORNER

Researchers have increasingly focused their attention on the EPP field and the work conducted by practitioners. It is our hope that we can assist the EPP field by providing another conduit between research and practice.

In this space, we provide an abstract of the research with a link to the full piece. We would like to have as much diversity of research as

possible. If you know of research that you think other practitioners may find interesting, please email the author's name and contact information to Nick White (whiten@umich.edu).

**NEGOTIATING HIGH STAKES WATER
CONFLICTS: LESSONS LEARNED
FROM EXPERIENCED
PRACTITIONERS (2003)**

by Stephen E. Snyder

In an effort to understand the human dynamics at work in a difficult and contentious water negotiation, the Natural Resources Law Center of the University of Colorado Law School convened two workshops of persons with extensive experience in such negotiations. One workshop consisted of stakeholders and attorneys who had participated in one or both of two admirable (but ultimately unsuccessful) efforts to resolve the water conflicts in the Klamath Basin by mediated negotiations. The other workshop consisted of professional negotiators, mediators, and attorneys who had taken part in difficult water negotiations throughout the West. The goals of the two workshops were the same: to understand why water conflicts are so difficult to resolve by negotiation and to develop some practical guidelines for how to organize and conduct a difficult water negotiation.

Part II of the report presents ten guidelines for organizing and managing negotiations that emerged out of the discussions at the two workshops. The guidelines do not constitute a comprehensive manual on how to negotiate contentious water disputes. Rather, they represent a set of ideas, suggestions, and warnings from experienced negotiators to those who are about to embark on a difficult but potentially rewarding task. These guidelines are as follows:

1. Because of the psychological and practical dynamics at work, initiating a negotiation of a contentious water dispute is difficult. A government agency is often in a better position to initiate a negotiation than private parties are, but a government agency that undertakes the task of initiating a negotiation must do so in ways that maintain the integrity of the negotiating process without compromising its ability to actively participate in the negotiations.
2. In most circumstances, a multiparty negotiation of a contentious dispute should not begin until a neutral third party has performed a conflict assessment.

3. If one of the parties to the negotiation is a Native American Tribe, the negotiations must be structured so as to respect and take account of the Tribe's sovereign status.
4. A realistic but firm deadline is an essential component of a successful negotiation.
5. The conveners of a negotiation confront a dilemma when deciding whom to invite to the negotiating table. Should only the "key players" be invited or should an invitation be extended to all persons (or their representatives) who are impacted by the conflict?
6. Fragmented federal and state authority over water issues is a major impediment to successful negotiations and creative ways must be found to address the negotiating barriers created by "jurisdictional fragmentation."
7. If the negotiations involve contentious technical and scientific issues, joint fact finding process should be established for investigating these issues.
8. In most circumstances, the negotiation of a multiparty dispute should not be attempted without the assistance of a

neutral mediator, unaffiliated with any of the parties.

9. Adequate funding to pay the often significant process costs associated with a multiparty negotiation is an essential component of a successful negotiation.
10. Negotiations will fail unless each negotiator, in addition to advancing his own interests, also looks for opportunities to advance the interests of his opponents.

Parts III and IV of the report, consisting of the proceedings of the two workshops, illustrate how seemingly inconsequential decisions about the management of the negotiation process can have a major impact on the success or failure of a negotiation.

Stephen Snyder was affiliated with the University of Colorado School of Law Natural Resources Law Center as its El Paso Corporation Law Fellow when he wrote this article, which he did with the assistance of funding from El Paso Corporation.

For the full article, please see

http://www.colorado.edu/law/centers/nrlc/publications/RR29_Negotiating-Water-Conflicts.pdf.

NEWSLETTER ISSUES

WRITERS WELCOME . . .

Do you like to write, but have no outlet? The Communications Committee is welcoming new volunteers. We are particularly interested in someone who will write book reviews. If you want to contribute to the newsletter on a regular basis or intermittently, please contact Committee Chair Mary Orton at mary@maryorton.com or 702.914-8066.

. . . AS IS FEEDBACK

We would like to know if the EPP newsletter is meeting your needs and if you have suggestions for improvement. Please send your feedback to Mary Orton, Chair of the EPP Communications Committee, at mary@maryorton.com. Thank you!