



Winter 1990

Managing Public Disputes

John A. Folk-Williams

Recommended Citation

John A. Folk-Williams, *Managing Public Disputes*, 30 Nat. Resources J. 253 (1990).
Available at: <https://digitalrepository.unm.edu/nrj/vol30/iss1/17>

This Book Review is brought to you for free and open access by the Law Journals at UNM Digital Repository. It has been accepted for inclusion in Natural Resources Journal by an authorized editor of UNM Digital Repository. For more information, please contact amywinter@unm.edu, lsloane@salud.unm.edu, sarahrk@unm.edu.

BOOK REVIEW

MANAGING PUBLIC DISPUTES

SUSAN L. CARPENTER and W.J.D. KENNEDY
San Francisco: Jossey-Bass Publishers, 1988
Pp. xviii, 293. \$24.95, hardbound.

Managing Public Disputes by Susan L. Carpenter and W.J.D. Kennedy is a process guide for public or private managers who find themselves responsible for dealing with conflict. It is one of a growing number of books based on the experience of professionals in the environmental mediation field and presents a comprehensive view of the strategies that can be effective in dealing with complex public disputes. The authors describe the customary choices facing the manager, all based on unilateral decisions of the agency, and offer alternatives based on the use of collaborative techniques.

The salient features of such techniques which the authors identify are: adoption of a facilitator role by the manager, the redefinition of the situation from one of an adversarial battle to a collaborative approach to problem-solving, face-to-face meetings between the parties (as opposed to encounters through hired intermediaries), their participation in shaping the process, and the use of consensus decisionmaking.

While the authors acknowledge that adversarial conflict is sometimes appropriate and necessary, their discussion encourages the view that conflict is the central problem facing the manager and that one can resolve it through use of specialized techniques, just as one would respond to any other administrative issue. Many other writers on environmental dispute resolution begin with the process of negotiation and focus on the dynamics of bargaining among the parties (*The Manager as Negotiator* by David A. Lax and James K. Sebenius, Free Press, 1986 and *Breaking the Impasse* by Lawrence Susskind and Jeffrey Cruikshank, Basic Books, 1987). Other writers are concerned about the specific role of the mediator and the various techniques by which neutral third parties facilitate negotiations (*The Mediation Process* by Christopher W. Moore, Jossey-Bass, 1986). *Managing Public Disputes* draws on both approaches but specifically addresses itself to the administrator who, whether by policy or budgetary constraint, usually has no outside help to call on.

The book opens by setting forth a model of the dynamic of conflict as the authors see it. This is probably the section that is most controversial but is best seen not as a theoretical construct (the authors do not present it so formally) but as a working hypothesis that gives shape and purpose to the managerial guidance comprising the bulk of the study. For the authors, conflict is not only dynamic, it tends, if not managed, to run out of control. In what they call the "spiral of unmanaged conflict," problems emerge, sides form, positions harden, communication stops,

and then the parties become progressively more alienated, their perceptions of each other ever more distorted, and their tactics run more and more out of their control until they find themselves in a true crisis with little sense of how to end it.

The underlying belief of the authors is that most conflict starts with a manageable problem, and if the proper techniques are employed, it need not enter this spiral and commit the parties to costs they had never imagined or desired. Conflict management methods are the key to early detection and resolution, the authors believe, and can help managers use resources more efficiently in responding to problems. Conflict, of course, can be looked at in many different ways. It can itself be a carefully managed strategy. Far from always running out of control, conflict is deeply embedded in many decisionmaking arenas based on adversarial models. Conflict can be seen as part of the energy that drives our system of government and as one of the essential tools by which powerless groups have historically inserted themselves into the political process. But the authors are clearly right that there are many cases where conflict backfires, and parties find themselves looking for a way out.

The second part of the book outlines a step-by-step process for such conflict management. This material is grounded in a number of case studies and distills a wide range of experience in a clear and readable form. The presentation of the wisdom derived from the authors' experiences as mediators gives considerable credibility and depth to the treatment. The book utilizes concepts of interest-based bargaining that have become familiar since publication of *Getting to Yes* by Roger Fisher and William Ury, but it is more than a simplistic "how to" approach.

For example, the authors emphasize the value of extensive conflict analysis, interviews with the parties, interpreting information of different types, and creation of a complete history of the situation. This includes an understanding of underlying needs, attitudes, values, level of investment in the issue, and a review of tactics employed to date. With such thorough information, a reasonable goal can be defined on which to base an effective management strategy. The authors caution wisely against a premature assembling of parties to "talk things through," understanding that even preliminary discussions will only hold promise if they represent an effort to create a whole new strategy for helping the parties meet their needs. A process must take shape from the needs of those in conflict and from the inner logic of the situation, they emphasize, and not from the needs of only one party—the manager.

A final section of the book elaborates numerous obstacles a manager will encounter, ranging from problems of handling intense feelings to finding ways to develop technical information the participants will find trustworthy. In one example taken from a water resources case, a novel way was found to help one of the parties, an environmental group lacking

resources available to others, to produce its own technical studies. This need became a problem for the whole group, since even those of differing views acknowledged that the lack of access to technical information could cause a breakdown of the whole process. Consequently, a homebuilders group assisted the environmentalists in securing funds for technical studies. The authors are quick to point out that such solutions can stem only from a process in which all parties recognize their interdependence in achieving resolution. They make the point that, far from taking control out of the hands of the manager, such an approach strengthens the ability of the manager to do his or her job.

The major omission from the book is a detailed consideration of the identity and precise role of the conflict manager. The assumption of the book seems to be that any public or private administrator dealing with conflict can use these techniques effectively. The authors, who are themselves experienced mediators, may bow to reality in deferring to "the manager" within an agency as the most likely architect of conflict strategies but do not adequately contrast the roles of in-house manager and independent mediator. How can a manager representing an agency with decisionmaking power in a case of conflict play the role of a facilitator without appearing simply to advance a biased viewpoint about the outcome? There is an interesting discussion on when mediators might be used, but no discussion getting at the hard questions about the generic manager who is presumed qualified and credible to do what mediators do in most cases. What types and levels of training might be necessary to master conflict management? Should the role be handled by a specialist within the organization or can it be added to the existing responsibilities of administrators? What is the relationship between conflict managers and decisionmakers? Such questions are not adequately addressed.

Also, there is no discussion of the agency that finds itself responsible for making a decision in the midst of a public dispute. That agency will have its own needs regarding the outcome and necessarily plays a dual role as facilitator and participant. Often, the process of planning and decisionmaking that led up to the dispute itself creates hostility, and conflict management can begin with a review of such procedures. In general, this study ignores the institutional issues in favor of giving practical guidance for the development of *ad hoc* methods of conflict resolution.

While the neglect of these issues is regrettable, the book as a whole provides a richness of detail, backed by the practical experience of the authors, on specific steps that can be taken to guide parties in conflict to successful resolution. It should prove useful to managers attempting to deal with situations they were very likely not trained to handle.

JOHN A. FOLK-WILLIAMS