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Editor's Introduction

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Editor's Introduction

In this special issue of the *Natural Resources Journal*, we take a look at the field of Environmental Dispute Resolutions (EDR). The perspectives we've chosen are various—Carpenter, Kennedy, and Berger write from the point of view of practitioners, though Berger's interviewing and listening is surely a novel definition of dispute resolution. Folk-Williams and Burton, though practitioners, are also well-situated to view the field from a broader perspective. MacDonnell introduces the reader to environmental dispute resolution from the point-of-view of law professor, while Painter, Folk-Williams and Burton are research-oriented in their praxis. Only Painter's article is theoretical or philosophical. The authors represent a diverse group of practitioners: a Canadian justice, a professor of public administration, a professor of law, professional mediators, and trainers of mediators.

This diverse group has attempted to cut a slice through the field, a field sometimes as slippery as a snow-fed river in the spring and as powerful as a creek at flood. We all feel strongly that EDR is an opportunity to be taken at the tide, providing those in dispute over natural resources with a new way of seeing the world and a new way of seeing themselves. EDR can give those charged with dominion and those charged with stewardship (and those not called to either vocation) a process, or a tool, if you prefer, to comprehend and treat with those conflicts.

Larry MacDonnell introduces this special issue with an overview article—the broad perspective of the field of environmental dispute resolution. A flurry of foundation—funded activity in the '70s has abated to sustained professional effort from several academic and non-academic institutions. At the same time, initial hesitation or restraint that limited the definition of "mediable" has given way to an expanded repertoire of techniques and a greater degree of complexity in the environmental conflicts being mediated. We see a whole spectrum of negotiated mediation, person-to-person mediation, interagency negotiation, third-party dialogues, and negotiated rulemaking, just to name a few of the activities now included in the rubric of environmental dispute resolution.

A case study is examined by Carpenter and Kennedy, two of the foremost EDR practitioners. The Denver Water Roundtable negotiations are classic in that they present these characteristics of a natural resources conflict: political involvement, a long time horizon, many stakeholders,

complex and multiple issues (water quantity and quality, wilderness and natural area preservation, urban and suburban growth policies). The negotiations proceeded over a period of years, following on many years of resurfacing conflict, another characteristic of environmental disputes.

Berger's long village journey through Alaska, undertaken by canoe, by Land Rover, and by bush plane, forms the background against the ongoing conflicts in regard to the Alaska Native claims are explored. Berger's commitment to hearing every word addressed to him at public meetings held in every village or fish camp in Alaska has resulted in a unique document of native issues voiced in the native tongues of Alaska. It is these voices whom Berger cites in his presentation of the complex, and often poignant conflicts confronting all Alaskans and all natives peoples as the 500th anniversary of the Spanish discovery of the Americas approaches.

Native American sovereignty is never far from the surface in Folk-Williams' review and update of negotiated Indian water disputes in western United States. Folk-Williams has tracked these complicated and vital conflicts for many years and uses these issues to state clearly the conditions, characteristics, and process of negotiating environmental disputes. He describes the meaning and importance of initial empowerment, equity, including all stakeholders, as well as the choice of negotiation strategy. Folk-Williams' case studies provide a snapshot—a slice through the time continuum—of the baroque and endlessly ramifying basic nature of natural resource conflicts.

Policy dialogue is another current use of EDR technique. Burton's article describes how negotiation can be used and abused to develop non-adjudicated agreements for toxic cleanup. Burton's article presents the question of whether policy, in this case mandated (not optional) EPA action, can be negotiated. The standards of integrity to which the public holds public agencies are not rigid; if they are subjectively interpreted (not to mention criminally flaunted), then these standards cannot provide a secure framework for negotiated agreements.

In the final article, Painter looks at the concept and case studies of EDR and takes a crystal ball into the field. If the practice continues along its path, then (she predicts) we can expect some pretty specific scenery in the future. Can EDR maintain its innovative alternative status? What kinds of creative steps must be taken to outfit EDR with the qualities it may need in the coming years? Looking at the anatomy of environmental conflict, Painter anticipates the kinds of problems we will have to deal with and suggests the types of professional skills, attitudes, and expectations that the field's practitioners may find handy to have along with them as they blaze an exciting, controversial, even courageous, trail in coming years.