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**INSTITUTIONALIZING ENVIRONMENTAL
DISPUTE RESOLUTION APPROACHES WITHIN
NATURAL RESOURCE AGENCIES:
LESSONS FROM THE U.S. FOREST SERVICE**

by Nancy J. Manring, Ph.D.

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Abstract

This paper describes some of the challenges to successful institutionalization of environmental dispute resolution approaches by large public resource agencies such as the U.S. Forest Service. Based on the results of a study of four national forests that utilized environmental dispute resolution approaches to resolve forest plan appeals, the paper discusses the importance of (1) effective boundary-spanning, (2) diffusion of knowledge about environmental dispute resolution within the organization, and (3) reconciling differential organizational and individual perspectives and costs through formal organizational change.

Introduction

In the last fifteen to twenty years, scores of seemingly intractable environmental disputes have been successfully resolved through ad hoc environmental dispute resolution approaches (Bingham 1986). Environmental dispute resolution (EDR) refers collectively to a variety of dispute resolution processes that go by various labels including collaborative problem-solving, negotiation and mediation. Bingham (1986, 5) defines EDR as,

. . . a variety of approaches that allow the parties to meet face to face in an effort to reach a mutually acceptable resolution of the issues in a dispute or potentially controversial situation . . . all are voluntary processes that involve some form of consensus building, joint problem solving, or negotiation.¹

¹For simplicity, the terms "environmental dispute resolution" and "negotiation" are used interchangeably in this paper.

The apparent success of environmental dispute resolution approaches has attracted the attention of state and federal resource agencies as well as corporations and citizen organizations (Carpenter and Kennedy 1979; Crowfoot 1980; Susskind and Ozawa 1983). For example, the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the Bureau of Land Management, and the U.S. Forest Service all have utilized consensus-building processes in recent years (Fiorino and Kirtz 1985; Susskind, Podziba and Babbitt 1989; Floyd and Mealey 1989; Wondolleck 1988). This interest in EDR is fueled by frustration with the costs and limitations of traditional adversarial, often judicially-based methods of resolving controversial environmental problems.

As the number of ad hoc success stories continues to grow, attention is being directed to institutionalizing EDR approaches within public resource agencies at the state and federal levels. Institutionalization refers to a variety of ways to incorporate EDR within organizational procedures as a routine decision-making tool. It is important to note that institutionalization needs to be understood as a complex, multidimensional process. It involves the trial, regularization and formalization of new individual attitudes and skills, new forms of existing relationships or entirely new relationships, and organizational mechanisms for implementing new conflict management methods and agreements (Manring 1987). In other words, institutionalization of EDR involves change at both the individual and organizational levels.²

²This paper is based on the theoretical foundation developed in a previous work by Manring that examines the nature and dynamics of institutionalization of alternative conflict management approaches. Interested readers may want to refer to the first work entitled "Institutionalizing Conflict Management Alternatives" (Center for Research on Social Organization, Program on Conflict Management Alternatives, Working Paper No. 7. Ann Arbor: The University of Michigan, 1987.)

The U.S. Forest Service is one of the federal agencies that has experimented with EDR on an ad hoc basis for a number of years. For example, in 1982, controversy surrounding several timber sales in Oregon's Willamette National Forest was resolved through the use of a consensus dialogue process (Wondolleck 1985). In 1983, a dispute over proposed road building and logging in Colorado's San Juan National Forest was resolved with the assistance of environmental mediators (Tableman 1990). As early as 1986, ten appeals of forest plans had been resolved successfully through negotiation (Wondolleck 1986).

More recently the Forest Service has taken an important first step to institutionalize EDR within agency decision-making. Faced with an ever increasing number of administrative appeals of forest plans as well as appeals of timber sales, oil and gas leases, and grazing permits, in 1988, the agency revised its administrative appeal regulation to explicitly authorize negotiations between Forest Service officials and appellants.³ In other words, the agency has taken a first step toward the formal institutionalization of EDR by authorizing and encouraging the use of EDR in codified regulation. The Forest Service is one of the first federal agencies to try to institutionalize EDR on an organization-wide basis. Thus, it provides an early case study of the challenges associated with organizational institutionalization of EDR.

³36 CFR Part 217.12. Resolution of Issues.

(a) When a decision is appealed, the Deciding Officer may discuss the appeal with the appellant(s) and intervenor(s) together or separately to narrow issues, agree on facts, and explore opportunities to resolve the issues by means other than review and decision on the appeal . . . Reviewing Officers may at the request of the Deciding Officer's, or on their own initiative, extend the time periods for review and specify a reasonable duration to allow for conduct of meaningful negotiations. (Federal Register 54(13) January 23, 1989, p. 3361.)

It is important to monitor these first efforts to institutionalize EDR for a variety of reasons. Proponents of institutionalizing EDR will want to learn from the successes and mistakes of these first attempts to change EDR's status from a tool for occasional, ad hoc dispute resolution to a regularized way of conducting agency business. Critics of institutionalization will want to see if institutionalized EDR retains the strengths and advantages attributed to the informality and voluntarism of "ad hococracy" when it is converted to a more formalized and perhaps mandatory means of resolving environmental disputes.

The significance of the Forest Service's first, formalized step to institutionalize EDR should not be underestimated. However, it is important to recognize that authorizing the use of EDR through codified regulation is just a first step. As noted above, institutionalization involves change at both the organizational and individual levels. Although the organization can formally endorse the use of EDR, the ultimate success of this initiative will depend upon several factors. Individual organizational members must develop the requisite skills, be willing to actually use EDR, and be willing and able to implement the resulting negotiated agreements. Second, it is likely that organizational changes will be required in order to accommodate and support this conflict management innovation. In other words, it is important to understand the nature of key challenges that could affect the successful implementation of this conflict management initiative. The rest of this paper examines key factors associated with successful institutionalization including (1) effective boundary-spanning, (2) diffusion of knowledge about EDR within the organization, and (3) reconciling differential organizational and individual perspectives and costs through formal organizational change.

The Role of Boundary-Spanning

Evidence suggests that monitoring the organizational environment through effective boundary-spanning (Pfeffer and Salancik, 1978; Thompson, 1967) is necessary for the successful institutionalization of EDR. Boundary-spanning can enable agency officials to better understand their organizational environment and their realistic alternatives to negotiations. In other words, knowledgeable appraisal of the organizational environment is necessary in order for organizational members to see the benefits of EDR. Conversely, ignorance of the agency's actual sociopolitical environment and correspondingly distorted impressions of the agency's decision-making autonomy can inhibit the realistic appraisal of conflict management alternatives. If agency officials do not understand their reasonable alternatives to negotiation, they may reject conflict management tools that can benefit the agency as a whole as well as individual land managers.

Whether Forest Service officials in the sample described EDR in positive or negative terms was heavily influenced by whether they understood and accepted the current sociopolitical context of forest management. The Forest Service historically has had a high degree of organizational autonomy and independence that is prized by the agency (Clarke and McCool 1985; Robinson 1975). However, the traditional autonomy of the Forest Service has been threatened in recent years. Both the National Environmental Policy Act of 1969 (42 U.S.C. 4321 (note)) and the National Forest Management Act of 1976 (16 U.S.C. 1600 (note)) (NFMA) substantially increased the involvement of the public as well as other government agencies in forest planning (Wilkinson and Anderson 1985): NFMA in particular represents unprecedented Congressional involvement in forest planning and management, and constituency dependence increasingly is necessary to accomplish broad organizational goals (Selznick 1953; West 1982). In other words, the prescriptive nature of NFMA coupled with

greatly expanded public involvement in forest planning has eroded the agency's traditional, near unfettered autonomy.

Forest Service officials in the sample recognized that given the current sociopolitical context of forest management, EDR is a tool that can protect the agency's -- and individuals' -- professional autonomy. For example, as one forest level official noted,

I'd prefer to operate with negotiation where I still make decisions. I may not have the broad scope of decision-making authority that I possibly once had; it may be somewhat restricted. But I'd rather be in that situation than have all my decisions made for me by Congress.

Successfully negotiating forest plan appeals protects organizational autonomy by enabling the Forest Service to maintain its jurisdiction over issues. Negotiating appeals enables the agency to contain conflict at lower levels in the agency, and minimizes the risk of judicial or legislative intervention. In other words, when agency officials are able to negotiate forest plan appeals, they are able to retain control over decision-making.

Negotiating appeals also enhances autonomy by enabling Forest Service officials to build the public support so critical in this current era of constituency dependence. The professional autonomy of individual Forest Service managers often is constrained by conflict and lack of public consent that can thwart the implementation of plans. Negotiating appeals and gaining acceptance and support for Forest Service programs can enable agency officials to resume management activities that may have been thwarted by unresolved conflict and appeals. While appeals are pending, Forest Service managers may be constrained from using certain management practices in particular areas of the forest. For example, clear-cutting operations may have to be suspended in order to avoid adding further fuel to the controversy; in some cases, agency officials may be enjoined by court order from using certain practices such as chemical brush control. However, negotiating appeals builds public consent that

enhances Forest Service officials' autonomy by allowing plan implementation to proceed. As one regional forester noted, "Through conflict resolution, you can get out there and really manage."

Thus, successful institutionalization of EDR requires that organizational members interact with and understand the realities of their organizational environment in order to realistically evaluate the advantages and disadvantages of EDR. Without this critical awareness, organizational members may naively reject valuable conflict management tools.

One of the advantages of EDR is that the EDR process itself can function as a boundary-spanning mechanism. Members of organizations typically look at the organizational environment through the lens of organizational ideology, tradition and culture (Pfeffer and Salancik 1978; Schiff 1966; Twight 1983); in fact, to a certain degree, organizational environments are created by the organizational members themselves through selective attention and interpretation (Pfeffer and Salancik 1978). The pervasiveness of the organizational culture and ideology can make it difficult for organizational members to accurately read their organizational environment.

However, the structure of most EDR approaches helps to mitigate the selective perception that can distort impressions of the organizational environment. The face-to-face nature of EDR processes makes it more difficult for organizational members to interpret their environment according to organizational constructions of reality. The direct and often lengthy, face-to-face dialogue with forest users in the EDR processes enabled agency officials to better understand the realities of their organizational environment. Forest Service officials learned a great deal about the appellants during the negotiation process; they gained information and insights via EDR processes that had not been accessible to them through more traditional means of public involvement. In negotiations, Forest Service officials

developed a better understanding of the changing values of the public and identified issues of which they were previously unaware. For example, one forest official explained this critical boundary-spanning function of EDR as follows:

It gives us a better appreciation of the people, and it helps us . . . adapt and make the changes that we need to make . . . The conflict resolution is a real opportunity for us to keep in touch with the change that is needed.

The EDR process also can enable agency officials to better communicate the agency's needs. In other words, boundary-spanning in an EDR process is a two-way street; not only does the agency take in vital information, but agency officials also can use the EDR process to communicate organizational needs. For example, one forest official described this boundary-spanning function of EDR processes as follows:

The advantage to the agency is that those are private citizens (i.e., the appellants) who are part of the constituency of the Congressional delegation . . . We're prohibited by law to lobby; we're just informing people of our needs.

The important implication for institutionalization of EDR is that boundary-spanning is a dynamic process that can reinforce the benefits of EDR. Effective boundary-spanning can provide vital insights that enable agency officials to realistically evaluate the potential advantages of engaging in EDR processes. Once involved in an EDR process, agency officials take in important information about their publics and are able to convey organizational needs; thus, the utility of EDR is reinforced. However, the key challenge is to set the process in motion initially through realistic, knowledgeable reading of the organizational environment.

Diffusion of Knowledge About EDR

Another challenge for successful institutionalization of EDR can be the difficulty of diffusing knowledge of EDR within the agency. It was difficult for the Forest Service to

internally advertise its successes in EDR for fear of biasing the willingness of appellants to engage in negotiations. In 1986, the agency conducted its own internal analysis of the outcomes of twenty appeals from five forests. Their internal analysis showed that the Forest Service was "winning" in negotiations. However, agency officials feared that written reports of how they were "winning" in negotiations would jeopardize the "win-win" image of consensus processes and discourage appellants from participating in future negotiations. For example, as an official in the Washington Office explained,

. . . we want to convey we haven't given up much in negotiation . . . but this doesn't sell well with the public. Probably one reason why publicity of negotiation is minimal is because the agency feels it hasn't given up much.

Although it may be in the strategic interest of the agency not to advertise their successes in negotiations in order to protect their position in future negotiations, lack of attention to their successes deters diffusion within the agency. Thus, a challenge to successful institutionalization of EDR involves balancing strategic concerns with the need to disseminate the agency's successes with EDR in order to dispel fears and generate wider commitment and support from organizational members. Organizational mechanisms need to be devised to facilitate the sharing of success stories with EDR as well as thoughtful discussions of the disadvantages of EDR. It is likely that federal agencies such as the Forest Service that operate within the constraints posed by the Freedom of Information Act (P.L. 93-502, 88 Stat. 1561, as amended; 5 U.S.C. 552) may choose to rely heavily upon informal, verbal sharing of successes in order to not jeopardize the organization's strategic position in

future negotiations.⁴ In addition, agency officials need access to detailed case studies that illustrate what the agency has been able to accomplish by using EDR processes.⁵

Perhaps equally as difficult for the diffusion of knowledge about EDR within the agency is the difficulty of replacing experiential learning. The overall impression from Forest Service officials in the sample suggests that individuals need to experience EDR processes first-hand. Several individuals talked about their first experiences in EDR processes in terms that suggested it had been a powerful, transforming experience. For example, one forest official referred to his involvement as a "dramatic human event" that changed his values, outlook and management style. Likewise, another agency official described his involvement in the EDR process as a "very profound learning experience."

It is difficult to achieve this kind of profound learning through anything other than direct experience. However, an organization may be able to capitalize on the loyalty of its members by emphasizing the organizational advantages of EDR approaches in order to encourage the use of EDR by individual organizational members. For example, Forest Service officials appear to have a strong sense of identification with the interests and needs of the organization; the loyalty and esprit d'corps of organizational members has long been observed (Kaufman 1960). Thus, understanding of the organizational advantages of EDR such as protecting organizational autonomy may help individual agency officials overcome their reluctance to try EDR approaches.

⁴This recommendation does not address the issue of whether it is appropriate for a federal agency to withhold information that shows whose interests are being served by one of its decision-making processes.

⁵This recommendation does not address the important issue of what "winning" means to the appellants and whether the EDR processes employed by the Forest Service are in fact "win-win".

Reconciling Differential Organizational and Individual Perspectives and Costs

Finally, reconciling the organizational and individual perspectives are critical in order to successfully institutionalize EDR approaches. Although the organization as a whole can formally adopt and endorse EDR through codified regulation, individuals are responsible for actually utilizing EDR approaches and implementing resulting agreements. Interpretations of the advantages and disadvantages of EDR are influenced by whether one speaks from the perspective of the organization as a whole or from the vantage point of individual organizational members.

One of the most critical organizational/individual dualities involves the differential costs of EDR approaches. Perceptions of the costs of EDR are influenced by whether one looks from the perspective of the organization as a whole or from the perspective of individual organizational members. Moreover, the costs of EDR are not borne equally by individuals at all levels in the agency. In particular, lower level line officers and staff who actively participated in EDR processes bear the brunt of the time demands of EDR.⁶

Although the revision of the appeal regulation occurred after an agency-wide review, the formalization of the authority to negotiate appeals was largely motivated by concerns emanating from the Washington Office of the Forest Service; delegating conflict management activities to lower levels of the agency hopefully would remove the burden on the Washington Office staff who were grappling with a growing backlog of unresolved appeals.

⁶The Forest Service, like many federal resource agencies, is a decentralized bureaucracy. Top level officials and policy makers work in the agency's Washington office. The country is then subdivided into nine Forest Service regions, each directed by a regional forester. The regions are further subdivided into national forests, headed by a forest supervisor; the forests are subdivided into ranger districts, headed by a district ranger. EDR processes typically involve primarily forest and district level officials who are aided by key officials from their corresponding regional office.

It was assumed that delegating conflict management activities would eliminate delays in appeal processing and save time for the organization as a whole in terms of calendar days.⁷

However, for individuals, participation in EDR processes requires a great deal of time in terms of manhours. Forest Service officials in the sample reported that in terms of manhours, negotiating appeals demanded much more time from individuals. In other words, the EDR processes saved time for the agency as a whole in terms of calendar days, but took more time in terms of manhours for the involved agency officials. For example, as one forest official noted, "It (negotiation) does require a lot more of our time on the ground and at the forest level. But if we are successful, we can save time and money for the agency as a whole."

At the time of this research effort, it appeared that top level policy-makers in the agency did not fully understand the new demands that were being thrust upon lower level line officers and their staffs. Perhaps more importantly, whether or not the Washington Office understood the demands of EDR, organizational mechanisms were not yet in place to mitigate the differential effects. A growing number of agency officials have tried to incorporate EDR approaches into their decision-making even without significant changes in organizational policy and workload to facilitate this newer management style. However, it is important to question how long agency officials would continue to utilize EDR without changes in organizational policies and reward systems to mitigate the differential effects of

⁷Under the traditional appeal process, formal appeals of forest plans are sent to the Washington Office for processing and review. At the time of the revision of the appeal regulation, the Forest Service was plagued by a growing backlog of unresolved appeals. It was taking too long in terms of calendar days to get a decision on an appeal. In fact, during the review of the appeal regulation, the agency was criticized by the public for failing to meet its own timelines, although they insisted that appellants meet the timelines outlined in the appeal regulation.

EDR. Successful institutionalization of EDR will require more than encouragement and explicit authority to use negotiations through codified regulation. Other vital organizational transformations will have to take place to accommodate the demands of EDR approaches and the needs of individuals who use these conflict management tools.

For example, work loads may have to be adjusted; in establishing resource targets, top level officials will need to factor in calculations of the time -- in terms of actual manhours -- that it takes to build consensus with forest users. Several informants expressed frustration that they are expected to do everything they always have done, including meeting their resource targets, while also using their time to build consensus with forest user groups. Organizational reward structures also may need to be modified; according to some agency officials, existing incentive systems are designed primarily to reward meeting deadlines and targets rather than successfully resolving issues. However, enduring institutionalization of EDR will require that agency officials who utilize EDR approaches be recognized and formally rewarded for their conflict management efforts and expertise. Explicit recognition for conflict management skills can help to mitigate the differential costs of EDR approaches born by only some members of the organization.

Finally, for successful institutionalization of EDR to occur, organizational changes cannot be superficial. The culture of the organization needs to accommodate and truly legitimize this more participative management style. In particular, the organization needs to develop an organizational culture that supports working **with** the public in EDR processes. The Forest Service, like many natural resource agencies, is undergoing a cultural transition. The stated mission of the agency is "Caring for the Land and Serving the People." However, the role of Forest Service professionals in "Serving the People" is changing. "Serving the People" once meant making professional resource management decisions **for the**

public. As professional land managers, Forest Service officials knew what was best for the land and decided what was in the public interest. Increasingly, "Serving the People" is coming to mean making decisions **with the public.** In other words, members of the public, rather than the Forest Service, decide what is in their interest. Making decisions with the public implies that agency officials apply their scientific, technical expertise to achieve socially defined land management objectives.

Organization culture, definitions of appropriate professional role behavior, and the attitudes of organizational members go hand-in-hand and reinforce one another. Those who believe that their primary professional purpose and the corresponding mission of the organization is to make decisions **for the public** are not likely to see the benefits of EDR. From this standpoint, with primary allegiance to norms and practices of the professional peer group, negotiating and accommodating the wishes of stakeholders can be seen as a weakness. Conversely, those who have redefined their professional role in terms of making decisions **with the public** -- those who are comfortable utilizing their expertise to meet the needs and desires of their clients, the public -- recognize the advantages of EDR approaches. Thus, changing notions of appropriate professional role behavior, accepted by individuals and embodied in the organizational culture, will facilitate the enduring institutionalization of EDR.

Conclusion

To summarize, the successful institutionalization of EDR within large public resource agencies requires several important ingredients. First, effective boundary spanning is critical to enable organizational members to understand the realities of their organizational environment, their realistic alternatives to negotiation, and the benefits of EDR. Without this

critical awareness, organizational members may reject potentially valuable conflict management tools.

Second, an organization trying to institutionalize EDR should actively seek means to diffuse knowledge of the realities of EDR within the organization. Evidence suggests that diffusion of knowledge is hampered by strategic considerations and the difficulty of replacing experiential learning. Nevertheless, it is crucial that organizational mechanisms be devised to facilitate the sharing of success stories with EDR as well as thoughtful discussions of the disadvantages and limitations of EDR.

Finally, successful institutionalization of EDR within organizations requires that differential organizational and individual perspectives and costs be reconciled and mitigated through formal organizational change. It may be necessary to adapt formal organizational policies and reward systems to the realities of EDR in order to mitigate the differential costs that could discourage individuals from utilizing EDR approaches. However, such organizational changes cannot be superficial. The enduring institutionalization of EDR requires organizational cultural underpinnings that truly legitimize and support the use of EDR. The critical factor for successful institutionalization is that the culture of the organization legitimizes the practice of making decisions in partnership with public stakeholders.

The foregoing suggests that the successful institutionalization of EDR may require a re-examination of the role of public officials. Traditional assumptions that a group of professional experts can determine the public interest must give way to a newer view of the appropriate role for public officials that emphasizes the manager as facilitator. Writing about the Forest Service in particular, Behan (1966) thoughtfully observed,

And so American forestry began, presuming an expertise and a righteousness that were momentarily popular but not altogether consistent with American politics and society . . . For the "various ends of society," in our unique society, are and will be set only by that society, and not by a professional class of foresters.

The successful institutionalization of EDR within public agencies will necessitate the adoption of a role for public officials that enables them to utilize their professional expertise to facilitate the accomplishment of the "various ends of society," determined by members of the public in partnership with public officials.

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