

*Environmental Conflict Resolution and Collaboration:
Situation Assessment, Process Design and Best Practices*
EVPP/CONF 683 (13676, 13677)

Semester: Spring 2011
Class Time: Mondays, 4:30 – 7:10 pm
Location: Nguyen Engineering Building 1107
Instructor: Frank Dukes, Ph.D.
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Course Summary: This course explores best practices for managing, resolving and transforming environmental conflict through the use of deliberative environmental conflict resolution (ECR) processes. The class begins by examining the nature and dynamics of environmental disputes and methods for assessing conflict situations. The course then turns to methods for conceiving, conducting and completing various forms of ECR processes. Students will develop a capacity to assess the strengths and weaknesses of ECR processes while learning about best practices for preventing, preparing for, and addressing environmental conflict. Among the domestic and international environmental conflicts examined this year are issues the coalfields and the Chesapeake Bay.

This course examines more closely the structure of specific environmental disputes and introduces students to the mid-level theory and practice of situation assessment, process design, and convening and conducting a process. Questions addressed in this course include the following:

- What do we need to know about a dispute in order to understand its sources, dynamics and potential outcomes?
- How do we decide whether or not a case is suitable for an ECR process?
- How do we conduct a situation assessment that can lead to an effective process design and convening?
- What strategies need to be employed to convene which parties, for what purposes?
- What are the key components of process design?
- How are science and policy considerations introduced?
- What constitutes success in environmental conflict resolution? What outcomes are desired, which outcomes are possible, and how do we measure those outcomes?
- What leads to successful ECR? What can we learn from successful and unsuccessful ECR cases?

This course proposes that appropriate ECR begins with a thoughtful, thorough assessment of the key parties and interests. This assessment needs to engage those parties in envisioning appropriate processes and desired outcomes. Students will learn how to conduct a situation assessment and use appropriate criteria for determining which processes are appropriate for which situations.

Why is environmental conflict resolution important?

As the global population grows, economies develop, and climate impacts increase, the pressures on our historic and natural resources continue to mount. Environmental issues offer particular

challenges because of their impacts on multiple communities and on multiple levels of governmental jurisdictions. Conflict is often experienced within a community as well as between communities sharing the same resources, and between and among responsible agencies of government.

Environmental problems typically involve many different types of parties, issues, and resources. What is often at stake in the most intractable environmental problems are core issues such as individual and community health, racial and ethnic justice, the integrity or destruction of whole ecosystems, and the economic or cultural viability of various human communities. The environmental arena invokes passion because the consequences of these issues are so profound to individual and community life.

In short, the biggest environmental challenges involve multiple layers of problems. The President's Commission on Sustainable Development found that "conflicts over natural resources increasingly are exceeding the capacity of institutions, processes, and mechanisms to resolve them. Adversarial administrative, legal, and political processes ... typically stress points of conflict, dividing communities and neighbors. What is usually missing from the process is a mechanism to enable the many stakeholders to work together to identify common goals, values, and areas of interest through vigorous and open public discussion." Sustainable solutions, then, will require overcoming the barriers of fragmented knowledge and governance – the disconnections within and among science and government.

Course Conduct: This is a graduate level course that assumes that adult students have primary responsibility for their own learning. We will conduct this class with you as partners in learning. I invite you to consider knowledge a shared resource, and like other common resources one that can be nurtured with common cause or abused when responsibility is disregarded. We will devote in-class time to building shared expectations and norms to meet your own and your classmates' highest aspirations for learning with one another.

The primary learning tools will be readings, class lectures and discussions, exercises (e.g., simulations), and interaction with classmates, parties to disputes and negotiations, and other invited guests. Your primary requirements to take advantage of these opportunities are attention, initiative, risk and consistent work.

The instructor has lived abroad for several years and has hosted visiting scholars and practitioners from approximately 20 nations during his 18 years at the Institute for Environmental Negotiation (University of Virginia). The course will allow for exploration of diverse student interests, whether such interest reflect nationality, ethnicity, professional affiliation, level (local, state, federal, transboundary) or subject (e.g., air, water, land use) of practice.

At any time, if you want to discuss a question about your personal performance, please contact me outside of class via my office or by email. If you have questions about the class and application of a technique or theory, please raise that question in class for the benefit of everyone.

Honor Code:

I expect you to demonstrate respect for the learning process and those who contribute to that process. Knowledge is a shared resource and I encourage sharing ideas with other class members, including reviewing written assignments prior to submission. In order to protect the integrity of knowledge I also expect you to acknowledge the contributions of others, whether those come in the

form of writings or such discussions.

All George Mason University students have agreed to abide by the letter and the spirit of the Honor Code. You can find a copy of the Honor Code at academicintegrity.gmu.edu. All violations of the Honor Code will be reported to the Honor Committee for review. With specific regards to plagiarism, three fundamental and rather simple principles to follow at all times are that: (1) all work submitted be your own; (2) when using the work or ideas of others, including fellow students, give full credit through accurate citations; and (3) if you are uncertain about the ground rules on a particular assignment, ask for clarification. If you have questions about when the contributions of others to your work must be acknowledged and appropriate ways to cite those contributions, please talk with me. It is much better to error on the side of inclusion.

ICAR requires that all written work submitted in partial fulfillment of course or degree requirements must be available in electronic form so that it can be compared with electronic databases, as well as submitted to commercial services to which the School subscribes. Faculty may at any time submit a student's work without prior permission from the student. Individual instructors may require that written work be submitted in electronic as well as printed form. ICAR's policy on plagiarism is supplementary to the George Mason University Honor Code; it is not intended to replace or substitute for it.

General:

The English Language Institute offers free English language tutoring to non-native English speaking students who are referred by a member of the GMU faculty or staff. For more information contact 703-993-3642 or malle2@gmu.edu.

The Writing Center is a free writing resource that offers individual, group, and online tutoring. For general questions and comments please contact them at wcenter@gmu.edu or call: 703-993-4491.

Readings:

- There is one textbook for the class, *Dealing with Differences: Dramas of Mediating Public Disputes*, by John Forester. Other assigned readings will include journal articles, role plays, current events, and student essays in a blog format (see below for bibliography).

COURSE EMPHASIS:

- Strategic thinking that is required for assessing and designing appropriate ECR processes;
- Understanding of the public interest and questions of social justice and sustainability that make environmental conflict particularly important and challenging;
- Emphasis on goals and outcomes and means of effective monitoring and evaluation;
- Simulations and other exercises that bring real-world issues to the classroom and learning tools that engage adult learners as well as build collaborative capacity through that learning process;
- Cross-discipline learning experiences that offer opportunities for students to practice in class what they are attempting to do outside of class.

Likely Focus Areas:

- Mountaintop removal has reduced energy prices and provided corporate income, employment in high-unemployment areas, and taxes to pay for schoolteachers and nursing clinics. It also has torn apart landscapes, destroying land and streams, while at the same time it has divided families, communities, organizations, and municipalities. It also lays bare, in stark terms, choices that society

faces all over the globe, choices conveniently ignored or postponed so that we can keep our lifestyles as we wish. Can environmental conflict resolution bring together the diverse and often conflicting residents and leaders in the coalfields region to envision a future that sustains environment and economy?

- This is a time of both uncertainty and promise within the Chesapeake Bay watershed. Emerging regional support for locally-produced food and the current EPA mandates aimed at accelerating Bay health indicate that we may have an unusual opportunity to align strategies for the reduction of nonpoint pollution with local economic development and public health. What would it take to facilitate the exploration of new approaches to growing the economy while enhancing the conservation of the Chesapeake Bay watershed? Can stakeholders in the local agricultural economy—local farmers, regional and national grocery stores, national food distributors, state agencies and state cafeterias (including public schools)—find common ground and mutual benefits in developing a new markets, new policies, and new partnerships?

Participation:

*** Attendance and participation in class is very important. Please show up on time, but if you are late don't let that stop you from participating once you arrive. And **please let me know in advance if you will miss a class**. Assignments may be modified on a weekly basis, and you will need to make appropriate arrangements.

Graded Assignments:

- **An ongoing diary** of reflections combining your analysis of reading assignments with your observations of a selected issue or issues in your area of interest. These will be in the form of a blog and will include reflections and discussion with your fellow students and myself. **(40%)**.
- **Active class participation (30%)**.
- **Group Project: Situation Assessment and Process Design.** In small groups of 3 or 4 students, you will pick a conflict of interest and develop a basic proposal for intervention. Students may approach the situation through one of several roles. These include the following:
 - 1) a stakeholder or primary party, such as a member of the public, or business owner, or nonprofit representative, who has an interest in the substance of the outcome, who is helping shape an ECR process as one of the parties who will be negotiating interests during that process;
 - 2) an agency or other party who has primary responsibility for determining policy, creating a plan or regulation, or implementing policy and who serves as a convener of an ECR process; or
 - 3) a third-party mediator or facilitator who is helping parties design and implement an ECR process.Details will be developed in class. **(30%)**.

GRADING CRITERIA:

An A is offered for outstanding work; a B is given for work that is truly satisfactory; a C is unacceptable for graduate participants.

Grading will be based on:

40%: An ongoing diary of reflections based upon course readings, class discussions, and student experiences.

For the first 8 classes beginning following class two (classes 2-9), you will keep a journal of your responses to the course. This journal will be posted on a class Ning site to be assigned in class. Your journal is a place to explore ideas concerning course readings, lectures, and discussions without worrying about being evaluated. It is a place to experiment and to ask yourself, "How well can I explain or describe my/this idea?" The point of the journal is to develop a regular, habitual practice of figuring out what you think of the course materials and your participation in class. If you add to your journal consistently and regularly, you'll find that your thinking and your ability to make connections will deepen.

The journal will have two parts:

Reading Reaction: By 9 p.m. on Sundays before class, reflect on the readings and explore a question that interests you. See if you can make connections between the readings and your interests, thinking about how they best fit together, and identifying where the discrepancies are. Do some of the materials disturb you? Why? Which readings resonate most with you? Why? Exploring some of these paths will allow you to take an analytically critical approach to the readings. You should be able to do this with 300-500 words or so per class.

Afterthoughts: By 9 p.m. on Thursdays after class, reflect back on the readings and class discussions and activities synthesizing what you take away. What else seems important: quotes, images, ideas? Have you changed your thinking at all on the basis of the class? Have you understood some of the readings in a different light? Are there ideas that were generated in class that you will want to think about more fully? This should be about 300-500 words long as well.

It is very important that you keep this journal on a consistent basis. While the content will not be graded, your completion of these writings for the first 8 classes constitutes 20% of your grade. You are allowed two late entries, after which each late assignment counts 1 point deducted from your grade.

You will have two summary reflections, worth 10% each, during the semester. The first is due February 27 at noon. Look back at your journal and, in a 900-1,200 word essay, reflect on questions such as these: 1) Identify major ideas, themes, and threads and analyze how they have developed over the course of this semester. What is their significance for you so far?

Then, by noon on May 9, part 2 of your journal and reflections will be due. It will be based on additional readings and class discussions covered since February 27, following the guidelines above. The reflections should be 900-1,200 words, and will include: What have you learned about environmental conflict resolution? What have you learned about working in groups? What have you learned about yourself? How do your insights connect to your life, your personal values and convictions? What challenges do you find now either concerning environmental conflict resolution, your work or your beliefs? How will you address those challenges in the future?

Each of these two submissions will be graded as follows:

- | |
|---|
| 0 - F Did not complete assignment, or no apparent effort or thought. |
| 4 - C Completed assignment. Demonstrates adequate preparation: knows basic facts, but does not show evidence of trying to interpret or analyze them. |

7 - B Satisfactory effort. Demonstrates good preparation: knows case or reading facts well, has thought through implications of them.

Offers interpretations and analysis of case material (more than just facts) to class.

10 - A+ Demonstrates excellent preparation: has analyzed material exceptionally well, relating it to other readings or material (e.g., course handouts, discussions, experiences, etc.).

Offers analysis, synthesis, and evaluation of readings and case material, e.g., puts together pieces of the discussion to develop new approaches that take the class further.

I do give weight to organization, writing style, and mechanics, as well as demonstrated understanding and presentation of issues.

30%: Class attendance and active participation.

Active participation in class discussions, assignments, and exercises is expected from each student.

Beginning with class #2 through class #11, participation is rated for each class on a scale from 0 (lowest) through 10 (highest), using the criteria below. While your participation is important for any class you take, this class by its experiential nature requires considerable involvement, including interaction with your classmates.

We each learn from what you offer to the class. I encourage you to strive for a “10” for your own and others’ benefit.

Participation is graded on this basis:

0 - F Absent or without contribution.

4 - C Offers straightforward information (e.g., straight from the case or reading), without elaboration or very infrequently (perhaps once a class). Does not offer to contribute to discussion, but contributes to a moderate degree when called on.

Demonstrates sporadic involvement.

7 - B Contributes well to discussion in an ongoing way: responds to other students’ points, thinks through own points, questions others in a constructive way, offers and supports suggestions that may be counter to the majority opinion.

Demonstrates consistent ongoing involvement.

10 - A+ Contributes in a very significant way to ongoing discussion: keeps analysis focused, responds very thoughtfully to other students’ comments, contributes to the cooperative argument-building, suggests alternative ways of approaching material and helps class analyze which approaches are appropriate, etc.

Demonstrates ongoing and very active involvement.

30%: Situation Assessment and Process Design Recommendations.

The exact assignment will be developed in class. The semester will culminate with presentations by small groups of the process design. Grading is based upon that presentation, NOT written material.

Instructor Biography:

As Director of the Institute for Environmental Negotiation (IEN) at the University of Virginia, Dr. Dukes designs dispute resolution and public participation processes, mediates and facilitates, teaches and trains in the areas of public involvement, mediation, negotiation, and

consensus building, and conducts research. He has worked at local, state, and federal levels on projects involving environment and land use, community development, education, health, and racial and ethnic diversity. He also has helped initiate and is core faculty of the Virginia Natural Resources Leadership Institute, a year-long program that brings together representatives from industry, non-governmental organizations, public agencies, and communities to develop collaborative leadership around environmental issues.

As part of IEN's "Collaborative Stewardship Initiative," he initiated the "Community-Based Collaboratives Research Consortium" seeking to assess and understand local collaborative efforts involving natural resources and community development, and the "Best Practices Guidance Project" resulting in the publication of *Collaboration: A Guide for Environmental Advocates* in partnership with The Wilderness Society and the Audubon Society in July of 2001.

His book *Resolving Public Conflict: Transforming Community and Governance* (Manchester University Press and St. Martin's Press, 1996) describes how public conflict resolution procedures can assist in vitalizing democracy, by engaging citizens productively in civic and community affairs, by aiding public entities in developing a responsive governance, and by enhancing society's capacity to solve difficult public problems. With two colleagues he is co-author of *Reaching for Higher Ground in Conflict Resolution* (Jossey-Bass, 2000), which describes how diverse groups and communities can create expectations for addressing conflict with integrity, vision, and creativity.

He received a B.A. from the University of Virginia and an M.S. and Ph.D. in Conflict Analysis and Resolution from George Mason University. He was previously operator of a piano restoration business for over 10 years in Albemarle County. He is a founding member and past chair of the Community Mediation Center of Charlottesville-Albemarle. He also serves as advisor to and trainer for University Mediation Services. He is co-chair of the Environmental/Public Policy Section of the international Association for Conflict Resolution. He has two children. His wife, Linda Hankins Dukes, teaches reading to elementary school students.

Course Topics and Anticipated Readings

Note: this should be understood as a description of the course sequence rather than a locked calendar, as the actual course content and assignments may vary by student interest, guest schedules, and current events.

General Readings:

Dukes, E. Franklin and K. Firehock. *Collaboration: a Guide for Environmental Advocates*. Charlottesville, VA, Institute for Environmental Negotiation, The Wilderness Society, National Audubon Society. 2001. Hard copy available in class (no charge).

Forester, John. *Dealing with Differences: Dramas of Mediating Public Disputes*. Oxford University Press, 2009.

A variety of case study material will be available on-line and distributed in class as well.

Why Environmental Conflict Resolution?

- How did the ECR movement emerge? Who uses ECR and for what types of issues? What types of ECR processes exist? How wide is ECR's use? What is its impact? What concerns exist about

collaborative processes? Who makes those claims, based upon what forms of knowledge (research, experience, “gray” literature)? How can one determine the validity of claims pro and con?

Forester, John. *Dealing with Differences*. Introduction, Chapter One.

Firehock, Karen. “An Overview of the Community Based-Collaborative Movement in the United States.” In Dukes, Firehock and Birkhoff, eds., *Community-Based Collaboration: Bridging Socio-Ecological Research and Practice*. University of Virginia Press, 2011.

Tamra Pearson D’Estrée, E. Franklin Dukes, and Jessica Navarette-Romero. “Environmental Conflict and Its Resolution.” In B. Bechtel and A. Churchman, eds., *Handbook of Environmental Psychology*. New York: Wiley & Sons, 2002.

McCloskey, J. Michael. “The skeptic: collaboration has its limits.” *High Country News*. 28 (9), p. 13. 1996.

Fisher, Marc. “Constituents' Concerns Fall On Hired Ears.” *The Washington Post*. Oct. 23, 2005.

MacGillis, Alec. “Tysons Forums Sowing Skepticism: Some Residents Fear Their Input Is Moot.” *The Washington Post*. February 12, 2006.

Dukes, E. Franklin. "Public Conflict Resolution: A Transformative Approach." *Negotiation Journal* 9(1): 45-57. 1993.

Understanding Environmental Conflict: Conducting a Situation Assessment

- How does one conduct a formal or informal situation assessment? How can one decide when ECR is appropriate? Are there circumstances in which ECR would not be appropriate? Are there issues that are non-negotiable? Are there individuals or organizations with whom one would not negotiate?

Bean, Martha; Fisher, Larry; Eng, Mike. “Assessment in Environmental and Public Policy Conflict Resolution: Emerging Theory, Patterns of Practice, and a Conceptual Framework.” *Conflict Resolution Quarterly*, vol. 24, no. 4, Summer 2007.

Peter Adler and Douglas Thompson: “Situation Assessment: Mountaintop Mining/Valley Fill Issues in the Little Coal River Watershed, West Virginia.”

“Cape Hatteras National Seashore: Negotiated Rulemaking Feasibility Report.” Prepared by The Consensus Building Institute, Cambridge, MA and Fisher Collaborative Services, Alexandria, VA. April 4, 2006.

Dukes, E. Franklin (with C. Gyovai): “Money Point Assessment.”

Designing a Principled and Effective Process

- What type of process is appropriate for which types of purposes? What should be done to ensure success? What protocols can be determined by participants themselves, and which by sponsors? How can you determine who needs to be involved, and in what ways?

Arnstein, Sherry R. "A Ladder of Citizen Participation," *Journal of the American Planning Association*, Vol. 35, No. 4, July 1969, pp. 216-224.

Society of Professionals in Dispute Resolution [now Association for Conflict Resolution]. *Best Practices for Government Agencies: Guidelines for Using Collaborative Agreement-Seeking Processes*. Washington,

D.C., Association for Conflict Resolution [formerly Society of Professionals in Dispute Resolution]. 1997.

Dukes, E. Franklin. "Mt. Rogers Trails Dispute." In *For the Common Good: Case Studies in Consensus-Building and the Resolution of Natural Resource Controversies*, eds. P. Adler and K. Lowry. Forthcoming.

Best Practices During a Collaborative Process

- What role does a third-party facilitator or mediator play? What constitutes agreement? Is consensus required? How do issues get raised and addressed? How can conflictual relationships be transformed? What role do the news media play?

Forester, John. *Dealing with Differences*. Chapters Two-Five.

Guide: pp. 29-42.

Elliot, M. and Bourne, G. *Evaluating the U. S. Environmental Protection Agency's Brownfields Facilitation Pilot Projects*. Report prepared for the U. S. Environmental Protection Agency. 2005.

Saunders, Hal and R. Slim. "Dialogue to Change Conflictual Relationships." *Higher Education Exchange*. 43-56. 1994.

Arlington Forum. "Civic Engagement: A Guide for Communities."

Dukes, E. Franklin. "Why Conflict Transformation Matters: Three Cases." *Peace and Change* 6 (1). 1999.

Determining and Evaluating Success

- How do collaborative groups monitor and evaluate their work? Who is responsible for implementation? Who determines what is success? How is success evaluated?

Guide: pp. 52-55.

Innes, Judith. "Evaluating Consensus Building." In *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement*, eds. L. Susskind, S. McKernan and J. Thomas-Larmer. Thousand Oaks, Sage. 1999.

Orr, Patricia J.; Emerson, Kirk; Keyes, Dale L. "Environmental Conflict Resolution Practice and Performance: An Evaluation Framework." *Conflict Resolution Quarterly*, vol. 25, no. 3, Spring 2008.

ECR in Practice

- How is ECR taken into the world?
- Student in-class presentations offering assessments and recommendations.

Forester, John. *Dealing with Differences*. Chapters Six-Nine.

Optional related readings:

Amy, Douglas. *The Politics of Environmental Mediation*. New York: Columbia University Press. 1987.

Beierle, Thomas C. and Cayford, Jerry. *Democracy in Practice: Public Participation in Environmental Decisions*. Washington, DC: Resources for the Future. 2003.

Beierle, Thomas C. and Cayford, Jerry. "Dispute Resolution as a Method of Public Participation." In *The Promise and Performance of Environmental Conflict Resolution*, eds. O'Leary, Rosemary and Bingham, Lisa B. Washington, DC: Resources for the Future. 2003.

- Birkhoff, Juliana. "Evaluation and Research." In *Critical Issues Papers*, Series Editors Dukes, E. Franklin; Romero, Rosemary; and Taylor, Thomas. Washington, DC: Association for Conflict Resolution. 2002.
- Conley, Alexander and Moote, Margaret A. "Evaluating Collaborative Natural Resource Management." *Society and Natural Resources*. 16. 371-386. 2003.
- Coglianesi, Gary. "The limits of consensus." *Environment*. 41 (3), 28-33. 1999.
- Coggins, George Cameron. "Of Californicators, Quislings, and Crazies: Some Perils of Devolved Collaboration." *Chronicle of Community*. 2 (2). 1998.
- Connick, Sarah and Innes, Judith E. "Outcomes of Collaborative Water Policy Making: Applying Complexity Thinking to Evaluation." *Journal of Environmental Planning and Management*. 46 (2), 177-197, 2003.]
- Daniels, S. E. and G. B. Walker. *Working Through Environmental Conflict: the Collaborative Learning Approach*. Westport, CT, Praeger: 2001.
- Golten, Mary Margaret, M. Smith, and P. Woodrow. "Hammers in Search of Nails: Responding to Critics of Collaborative Processes." In *Critical Issues Papers*, ed. S. Senecah. Washington, D.C., Association for Conflict Resolution: 36-47. 2002.
- Innes, J. "Consensus building: clarification for the critics." *Planning Theory* 3(1): 5-20. 2004.
- Innes, Judith E. and David E. Booher. "Consensus Building and Complex Adaptive Systems: A Framework for Evaluating Collaborative Planning." *Journal of the American Planning Association* 65 (4), pp. 412-423, 1999.
- Kenney, Douglas S. *Arguing About Consensus: Examining the Case against Western Watershed Initiatives and Other Collaborative Groups in Natural Resource Management*. Boulder: Natural Resources Law Center at the University of Colorado School of Law. 2000.
- Leach, William and Paul Sabatier. "Facilitators, Coordinators, and Outcomes." In *The Promise and Performance of Environmental Conflict Resolution*, eds. R. O'Leary and L. B. Bingham. Washington, D.C., Resources for the Future: 148-171. 2003.
- Susskind, Lawrence, S. McKernan, et al., Eds. *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement*. Thousand Oaks, Sage. 1999.
- Western Consensus Council and Consensus Building Institute. "Community-Based Collaboration on Federal Lands and Resources: An Evaluation of Participant Satisfaction." Paper presented at "Evaluating Methods and Outcomes of Community-Based Collaborative Processes," Salt Lake City, UT. 2003.
- Report of the Hagerstown Central Chemical Land Use Committee (<http://www.virginia.edu/ien/publications.htm>), 2003.
- Wondolleck, Julia M. and S. L. Yaffee. *Making Collaboration Work: Sessions from Innovation in Natural Resource Management*. Washington, D.C.: Island Press. 2000.