



Facilitation, Collaboration & Conflict Management

Environmental Experience: Joseph P. McMahon, Manager

Mediating since 1991

M.S. in Civil Engineering

Registered Professional Engineer, Colorado, 1975

Experience in the mediation, facilitation, arbitration and litigation of environmental disputes.

Panels, memberships:

CPR Institute on Dispute Resolution

American Arbitration Assn., Energy Panel

American Arbitration Assn., Large and Complex Case Panel

Panel, U.S. Institute for Environmental Conflict Resolution

General experience. I have been working in ADR since my initial mediation training in 1991, and also began service as an arbitrator at that time. In addition to law, I am a registered professional engineer (civil). As an engineer, I worked in construction scheduling, on site management, change orders, contract oversight, quality control, contract specifications, hydrology and materials science. I have an MS in Civil Engineering from the University of Denver.

Agency experience. I have worked with Corps of Engineers, USFS, Fish & Wildlife Service, Bureau of Reclamation, Departments of Army and Navy, EPA, National Park Service, and the departments of health and environmental protection from many states.

Environmental subjects.

I have worked in disputes involving, among others, the following:

- Superfund sites
- Endangered Species Act
- Clean Water Act
- Clean up of former military sites
- River flow and hydrology disputes
- NEPA
- Growth management and environment
- Groundwater pollution and pathways
- Cost sharing among PRPs

Relevant presentations or articles

- ADR in NEPA and Environmental Disputes, NEPA, 5th Annual Conference, CLE Intl, Denver, December, 2007.
- Using Conflict Assessments in Environmental ADR, CLE Intl. 4th Annual NEPA Conference, Denver, January, 2007.
- Interest-based Bargaining in Environmental Disputes, Rocky Mountain Association of Environmental Professionals, May 2001.
- Ethics in Environmental Negotiation, Colo. Bar Assn., Environmental Law Section, December 1999.

- Interest-based Bargaining in Environmental Disputes, Colo. Bar. Assn., Environmental Law Section, January 2001.
- Mediation Styles, US Institute for Environmental Conflict Resolution, May 2000.

Example environmental engagements:

- Facilitator, Edwards Aquifer Restoration and Implementation Program, Texas, 2009-2011. Facilitation of ESA and water use issues regarding Edwards Aquifer water withdrawals.
- Facilitator, Rathdrum Prairie and Treasure Valley Aquifer plans, Idaho, 2009-2011. Including climate change and environmental water need conversations.
- Facilitator, California Gulch Superfund, EPA, Colo Dept of Health, Lake County and City of Leadville, 2007-08. Facilitation of relationship and work among multiple actors in steps to delete the site from the NPL.
- Co-Facilitator, Missouri River Restoration Implementation Committee (COE, FWS, EPA, NPS, States of the Missouri River Basin and various stakeholders), 2005. The U.S. Institute for Environmental Conflict Resolution and stakeholders selected a team of facilitators, including Joe, to facilitate water allocation discussions among key stakeholders on the longest river in the US - the entire Missouri River main stem. As co-mediator, Joe made proposals for moving through complex technical and political conflicts about balancing the competing water needs of endangered species requirements, other Congressionally mandated uses (flood control, navigation) and water supply, tribal, recreation, and power generation.
- Facilitator, Lowry Landfill Superfund site (EPA, State of Colorado, City of Denver and Waste Management Inc.), 2004-05. The U.S. EPA, State of Colorado, City of Denver and Waste Management Inc., engaged Joe to facilitate a series of meetings among experts to assess the potential for modifying the site model in response to theories on specific preferential groundwater migration pathways.
- Facilitator-mediator, Rocky Mountain Arsenal, (US Army, State of Colorado, citizen groups) 2002. The U.S. Army and State of Colorado engaged Joe to plan, and then facilitate, a series of meetings designed to exchange information among participants who were in an intense dispute concerning the effect on ground water of chemical residue resulting from munitions development, storage and destruction. He provided a structure for, and facilitated, a series of complex technical exchanges that provided parties and local citizens with greater clarity concerning the health risks posed and treatment options. Joe also assisted parties to engage in interest based bargaining.
- Mediator, Jarbidge/Elko Nevada Public Lands Litigation, (State of Nevada, Elko County, U.S. Department of Justice, and others) 2001. The U.S. Institute for Environmental Conflict Resolution asked Joe to serve as a mediator in a highly contentious multi-party conflict concerning public access to forest land including the issues of Endangered Species, fire control, and local vs. national control of assets and decision-making. Joe conducted an informal situation assessment, consulted with the USECR and participants, and designed and proposed a series of meeting to address the

issues – through joint training sessions and mediated negotiations. The process resulted in a draft agreement to be presented to each government’s ratifying authority.

- Mediator, Superfund PRP Cost Allocation Dispute, Wyoming (parties confidential), 2003. Joe was asked to assist parties in a dispute over cost allocation in a Superfund site. Joe conducted an informal conflict assessment and assisted the parties in reaching a negotiated agreement to resolve all pending issues.
- Arbitrator, Mining Agreement dispute, 2003-4 (parties confidential). Joe was asked to arbitrate disputes concerning the effect of environmental enforcement actions on the parties’ mining agreement obligations.
- Mediator/settlement counsel (parties confidential) 1995-present. Joe has served as mediator or settlement counsel in many varied environmental cases involving: apportionment of responsibility for environmental degradation, parties seeking alternative dispute resolution for environmental suits, personal injury claims relating to environmental degradation and risk assessment.
- Legal counsel, Wyoming, Public-private land disputes (various land owners and U.S. Department of Justice). Joe served as co-counsel on various public-private land disputes over the location of public-private land boundaries on the Snake River and establishment of survey accuracy and methods.