



Facilitation, Collaboration & Conflict Management

## Natural Resources 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 a wide variety of energy and natural resource 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.

**Natural Resource subjects.** I have worked in matters disputes involving, among others, the following:

- Coal royalty dispute (mining, transportation costs)
- Coal facilities design and construction
- Validity of claims
- Contract mining disputes
- Private condemnation for mining
- Natural resources exploration and development
- Resource marketing
- Heavy oil
- Geologic data
- Drilling
- Quality of resources
- Repricing
- Oil refining
- Force majeure
- Joint operating agreements
- Acquisition and sale

The following are **example natural resource engagements:**

- Mediator, 2010, drilling and JOA dispute
- Mediator, 2007-08, class action royalty dispute
- Mediator, 2007, dispute over nature of investment in oil & gas property.
- Arbitrator, coal mining and delivery dispute, 2010. Mediator, mining claim dispute, 2009. Served a mediator in disputes over validity of disputed mining claims.

- Arbitrator, dispute over design and construction of coal mining and processing facilities. 2009
- Arbitration, Panel Chair, Mining Agreement dispute, 2003 (parties confidential). Joe was asked to serve as panel chair in an arbitration to resolve disputes concerning the effect of environmental enforcement actions on the parties' mining agreement obligations.
- Mediator, Joint venture dispute between mining and non-mining railway traffic, 2002 (parties confidential). Joe was asked by both parties in a joint venture to facilitate discussions of options to improve working relationships among the owners over competing uses for a jointly owned rail line. He facilitated a discussion of the various options to improve interests of each party and avoid future disputes.
- Trial counsel, disputed mining condemnation rights. Served as trial and appellate counsel in Montana dispute over rights to condemn for access to minerals.
- Trial counsel, right to stake claims. Served as trial counsel on dispute with State over whether lands were available for location of mining claims.
- Trial counsel, contracting mining dispute. Trial counsel in dispute over claimed breach of contract mining dispute for industrial minerals.
- Trial counsel, dispute over geologic data. Trial counsel over disputed access and possessory rights to core samples.
- Arbitration panel chair, 2006, disputes over gas compression equipment.
- Arbitration panel chair, 2006, case regarding disputes concerning an exploration and development agreement involving heavy oil and steam injection processes.
- Disputes over rights to participate in acquisitions, and receive proceeds from production.
- Amounts owed under JOA.
- Disputes of alleged breach of Exploration and Development.
- Claims for delivery of oil & gas and improper grade delivered.
- Effective dates of acquisition and rights of purchase.
- Force majeure suspension of obligations to deliver or take.
- Disputes over heavy oil projects and use of thermal/steam methods.
- Claims for damage to Plants due to improper usage.
- Construction claims regarding refinery.
- Damage claims for claims of improper transportation and pipeline usage, resulting in claims of isolated resources.
- Claims of damages for failure to obtain permits.
- Damages claimed for improper gathering and compression charges.
- Claims for fraud and intentional misrepresentation in seeking oil and gas investments.
- Damages claimed for failure to pass good title to property.
- Claims of mismanagement resulting in increased costs and decreased revenues.
- Claims for the statutory rights of a dissenting shareholder in improper purchases or sales.