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DEPARTMENT OF NATURAL RESOURCES
ALTERNATIVE DISPUTE RESOLUTION
PROGRAM EVALUATION REPORT

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SUMMARY AND EVALUATION REPORT
ALTERNATIVE DISPUTE RESOLUTION PROGRAM
MINNESOTA DEPARTMENT OF NATURAL RESOURCES

OFFICE OF PLANNING

JULY 1991

I. INTRODUCTION

In 1989 the Legislative Commission on Minnesota Resources authorized the Minnesota Department of Natural Resources to conduct a two-year pilot program in the application of Alternative Dispute Resolution (ADR) methods to external Department disputes. During the 1990-91 biennium the ADR program has been implemented through the Department's Office of Planning.

This document reports the results of the program. It contains the following sections:

- ◆ Section II - What is ADR; How Does it Work?
- ◆ Section III - Program Accomplishments by Objective
- ◆ Section IV - Benefits and Limitations of ADR
- ◆ Section V - Conclusions and Future Applications

II. WHAT IS ADR AND HOW DOES IT WORK?

In the alphabet soup of government acronyms, ADR seems to be floating to the surface more and more frequently. But even though people are hearing the term and using it, the essence of the concept and how it works are still unclear to many. This section provides a brief introduction to ADR and explains, in general, how ADR techniques have been applied by the Department through this program.

ADR--Alternative Dispute Resolution, even when you spell it out it may not be much clearer than the acronym. Alternative to what? Resolution of what?

The underlying principle of ADR is that the disputes or conflicts which arise as a normal result of human interaction can often be most *effectively* resolved by a structured dialogue between the parties to the conflict. It is this structured dialogue, usually negotiation or mediator-assisted negotiation by the parties, which is the essence of ADR.

Note the emphasis on "effectively" above. Too often dispute resolution is handed off to others who act on behalf of, or who decide the outcome for, the disputants. These more formal, public processes can result in solutions which miss the true interests of the parties, are difficult to implement, and may damage key relationships. ADR's structured dialogue combined with win-win negotiation techniques can produce solutions which

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meet the real interests of the parties, have a high commitment to implement, and often produce a stronger relationship than at first.

In the natural resources arena, ADR, originally called environmental mediation, has been used in scores of cases nationwide to settle project siting, resource allocation, and management disputes. Negotiations often involve many parties and a neutral mediator is frequently employed to help the parties with the process. Many agencies, including the DNR, have used a process called negotiated rulemaking to build consensus on controversial rule changes.

To be sure, some disputes need to be litigated. When a law is being tested or a dispute involves an important legal precedent, a court must decide. But with careful analysis, ADR can help to avoid unnecessary litigation or cut the cost of litigation when it is needed.

In order to implement the ADR program in the DNR, the Office of Planning created a full-time ADR Coordinator position to be funded by the LCMR appropriation. Don Buckhout, a 16-year employee of the Office of Planning, was selected to fill the position. Mr. Buckhout has managed the program by implementing the program objectives determined by the LCMR. In general those objectives are to inform DNR managers about the purpose and function of ADR to encourage its use, to support DNR staff in setting up and conducting negotiations, and to train DNR employees in the latest methods of interest-based negotiation to build their skill and effectiveness as negotiators.

In cases where negotiations are needed, the ADR Coordinator has provided the following services:

1. Conflict Assessment: help in identifying the issues, the key interests, and the best approach for resolving the dispute.
2. Convening: help in bringing parties together for negotiation.
3. Pre-negotiation planning: assisting DNR negotiators in identifying interests and options for mutual gains.
4. Mediator services: locating a qualified facilitator to help the parties work toward a successful resolution of the dispute.
5. Negotiator support: consultation and advice during negotiations to insure that DNR interests are effectively promoted and protected.

The DNR ADR program is also expanding into the area of conflict prevention--trying to keep the pieces from falling apart in the first place--to provide comprehensive conflict management services for the Department.

III. PROGRAM ACCOMPLISHMENTS BY OBJECTIVE

The ADR program had three objectives.

- A. *Inform and educate Department managers regarding the nature, value, and appropriate use of ADR methods.*
- B. *Establish and perform conflict assessment, negotiator support, and mediator procurement functions in specific dispute cases.*
- C. *Train selected Department managers and staff in principled (win-win) negotiation techniques.*

This section reports on the specific program accomplishments under each of these objectives.

A. Inform and educate Department managers regarding the nature, value, and appropriate use of ADR methods.

1. Conducted a workshop on ADR and negotiation in cooperation with the Mediation Center director at the Department's 1989 Fall Managers Conference.
2. Provided a seminar for DNR staff on public policy dispute resolution conducted by Dr. Larry Susskind, a national authority in this field.
3. Presented ADR program objectives and status to DNR Unit Heads at the 1990 spring quarterly meeting.
4. Encouraged approximately 20 DNR staff to attend a Humphrey Institute conference on public policy dispute resolution.
5. Presented ADR concepts to Division of Waters staff at their annual "Waters School", September, 1989 and 1990.
6. Hired a student worker to assist in preparation of ADR publicity and promotion materials to inform DNR staff of developments, opportunities and potential uses of ADR.
7. Presented ADR concepts and applications to the Ecological Services section at their annual meeting, February, 1991.

B. Establish and perform conflict assessment, negotiator support, and mediator procurement functions in specific dispute cases.

1. Provided support services and facilitator procurement services to the Expanded Timber Harvest Committee which was formed to address potential impacts related to increased utilization of aspen and other forest types in Minnesota.
2. Provided consultation and facilitation services for negotiations between DNR managers and local parties regarding the Lac Qui Parle goose hunt dispute.
3. Conducted facilitation of the Minnesota Valley Deer Management Task Force, a resource manager/local government/special interest committee, seeking to resolve dispute regarding methods for managing deer populations in the lower Minnesota River Valley municipalities. Final agreement was reached on recommendations regarding specific deer population control options, including innovative alternative to public hunting.
4. Provided conflict assessment services for the Division of Waters and convened negotiators for mediation regarding a dispute over expansion of the Seneca Wastewater Treatment Plant in Eagan. The mediation resulted in a final agreement among the parties.
5. Organized the Minnesota Fishing Roundtable, a two-day dialogue between key stakeholders from diverse interests to seek consensus on issues and strategies regarding Minnesota fishing quality. Contracted with

the Management Analysis Division (Dept. of Admin.) to provide facilitation services for the Roundtable.

6. Have begun discussions regarding development of a dispute resolution process or system for the DNR.

7. Met with other state agency ADR professionals regarding development of a state mediator network.

8. Coordinated with Farmer-Lender Mediation program (U of M Extension) to obtain mediation services for a Division of Waters permit dispute. Mediated negotiation proved successful in resolving this two-party dispute and avoiding a costly contested case hearing.

C. Train selected Department managers and staff in principled (win-win) negotiations.

1. Explored negotiation training alternatives available through the Harvard University Program on Negotiation and Mediation Center, Inc., St. Paul.

2. Contracted with Mediation Center, Inc., through the State Office of Dispute Resolution, to establish a negotiation training program specialized for DNR employees. Worked with the Mediation Center Executive Director to design specialized course components.

3. Three groups of DNR employees (84 people) have completed negotiation training program, *Effective Negotiation for DNR Employees*. Following are the breakdowns of the number of trainees by discipline and region:

Fish and Wildlife	20	Region 1	4
Waters	14	Region 2	20
Trails and Wtrwys.	13	Region 3	9
Minerals	11	Region 4	1
Forestry	7	Region 5	6
Planning	7	Region 6	4
R.A.s, other	5	Central Office	40
License Bureau	3		
Parks and Rec.	1		
Real Est. Mgmt.	1		
Field Services	1		
Human Resources	1		

4. Conducted a one-half day negotiation training session for the Bureau of Real Estate Management staff in cooperation with the Mediation Center, Inc.

IV. BENEFITS AND LIMITATIONS OF ADR

An obvious question at this point is: based on the experience of the last several years, how effective are ADR methods for resolving natural resource disputes? Part of the answer to this question has been sought through an informal survey of the DNR managers who have been directly involved in ADR-based negotiations. This section of the report summarizes their responses to the survey and then draws some conclusions about the benefits and limitations of ADR. These conclusions have implications for both future applications and program objectives.

The DNR Experience--A Summary

One gauge of the effectiveness of a program is to ask those who directly participated how well it worked for them. During the past several years, DNR managers have tested first-hand the use of ADR for resolving disputes and seeking consensus on resource management issues. We selected and interviewed 22 managers and administrators who were actively involved in 10 different ADR negotiations to find out what they thought of the process and its applicability to the DNR. The following paragraphs summarize their responses and provide a brief analysis. The complete survey responses are reported in Appendix A.

Findings

One of the first questions DNR managers were asked was whether they thought the ADR process they were involved in had produced a successful outcome. The managers judged that in three cases the outcome was fully successful, two cases were partially successful, four were unsuccessful, and in one case they withheld a verdict because the outcome is still pending.

In seeking to discover why four of the outcomes were unsuccessful, we asked the managers whether the reason was the people, the process, the preparation, or some other problem. In each case the people involved were judged to be part or all of the reason for the unsuccessful outcome. Specifically, the managers identified certain participants who they thought were not committed to a negotiation process and to the give and take that the process requires. In most of those cases, the uncooperative parties were suspected of having alternatives to the negotiation process that promised a better solution. Only two managers pointed to process problems--changing facilitators and delayed involvement of a facilitator--that they thought contributed to the failure to reach agreement.

The managers were also asked if, based on their experience, they would use ADR again. Twenty-one of the twenty-two managers indicated that they would use ADR again. However, two-thirds of those described some situations in which they thought an ADR approach might not work.

Those situations generally fell into three categories. One of the most frequently expressed reservations was that ADR should not be used when key parties are locked into their position and are unwilling to negotiate. Several responders would be reluctant to use an ADR approach if people's fundamental values were at stake. Others indicated that negotiation should not be used in cases where the DNR has no negotiating room, such as when resources are in jeopardy or when DNR action is mandated by law.

The managers also saw several benefits of ADR. They indicated that ADR is good for exchanging information among the parties, that it would work well for addressing broad policy issues, and that it would be applicable for dealing with internal DNR conflicts.

Analysis

The survey responses demonstrate clearly the strengths and weaknesses of ADR. DNR managers, through their first-hand experiences, confirmed one of the basic tenets of successful ADR--the parties must be willing to negotiate in good faith. In the five cases where the parties reached agreement, there was a general commitment to seek and work toward a solution. In the four cases where negotiations either broke down or never got started, the managers identified a party's unwillingness to negotiate as the main obstacle. These examples illustrate the need to insure that before ADR can be applied, all parties to the dispute must be willing to participate in the give and take of negotiations. (This point is discussed further in the *Voluntary Process* section later in this chapter.)

A careful conflict assessment stage, prior to face-to-face negotiations, is the key to dealing with the problem of intransigent parties. Usually, it is the mediator's task to interview the parties and obtain their commitment to the process before negotiations begin. If it is determined that parties will not negotiate in good faith, then ADR should not proceed. If such pre-negotiation interviews had been conducted for the muskie angling/darkhouse spearing dispute, one of the cases DNR managers labeled as unsuccessful, it is likely that ADR would not have been attempted.

Another of the ADR applications judged to be unsuccessful, the elk management dispute in northwestern Minnesota, was suspended very early in the process because one of the key parties refused to participate. Rather than being labeled as an unsuccessful ADR application, it should be considered as a case where ADR was not an appropriate conflict resolution technique. The only problem in this case was that the mediator pushed the parties into the negotiation stage before securing their willingness to participate. Similarly, the expanded timber harvest committee, another of the cases that DNR managers judged to have an unsuccessful outcome, suffered from the same malady--key parties with the potential to influence the outcome who refused to participate in the process.

In the other case where the parties did not reach agreement, the Lac Qui Parle goose management dispute, the negotiations reached an impasse. Each party advanced proposals that were not acceptable to the other. At its core was a conflict of values over the appropriate level of government control of private business and property. (See the discussion of *Values Conflicts* later in this chapter.) In addition, this was a much more informal negotiation than most of the others and the pre-negotiation groundwork that a good application of ADR requires was not adequately laid.

Analysis of ADR--What We've Learned

The following paragraphs summarize the things DNR has learned so far about the application of ADR techniques to natural resource issues.

Public Responsiveness

Negotiation sessions, negotiated rulemaking and resource roundtables all have the immediate effect of increasing the access and input of interest groups and citizens to natural resource decision-making. The response of participants in this process from outside the agency has been overwhelmingly positive; they appreciate the Department's willingness to undertake such an open and creative approach to problem-solving. ADR has the potential to not only increase the Department's credibility with the public and with key constituent groups in many areas of resource management but to enhance its responsiveness to clients and customers.

Process

One characteristic of ADR is the structure of the process. While this structure varies depending on the specific method used, the common factor is creating a definite framework within which discussion occurs. Furthermore, in those ADR methods overseen by a neutral or mediator, that person is responsible for keeping the discussions within that structure.

Groundrules are one of the most beneficial elements of ADR structure. Groundrules are essentially a list of standards and procedures for the discussions that all participants agree to comply with. The groundrules typically cover such areas as the scope of issues to be addressed, acceptable behavior, media contacts, withdrawal from the process, and deadlines for completion. Groundrules are an extremely powerful tool for creating the kind of atmosphere in which cooperative problem-solving, rather than verbal sparring, can occur.

Consensus

Consensus is the double-edged sword of ADR. As it has been applied in DNR negotiations, consensus basically means that all parties to the discussion must be able to accept a proposal before it is considered to have the sanction of the group. Some parties may not be very enthusiastic about a proposal, but consensus requires that they acknowledge that they can at least live with it, or the proposal fails. It only takes one participant to scuttle a proposal if they find it unacceptable.

When using consensus decision-making, groups must explore all aspects of an issue to search for a common denominator solution. Consensus eliminates the disgruntled minority who lose the vote and then drag their feet or undermine the implementation of the majority's decision. An agreement reached through a consensus process has a powerful sanction for implementation.

However, consensus can be an extremely frustrating decision-making standard for people accustomed to the voting process. It can be time-consuming and aggravating for the majority. But those in the minority see it as a safeguard which insures that their interests will be considered. ADR advocates, who are seeking conflict resolution, realize that voting usually leads to more polarization and a renewal of the hostilities; consensus, on the other hand, forces the group to find areas of agreement.

Written Agreements

ADR practitioners insist on written agreements as a product of the process. Frequently, those documents are signed by the parties. Usually missing from more conventional informal problem-solving discussions, written agreements protect the parties from ambiguities, enhance implementation, often provide for follow-up, and

usually specify a procedure for handling future disputes. They build the parties' commitment to the outcome. Written agreements have been a product of all of DNR's successful ADR applications.

Time and Cost Savings

ADR is frequently promoted as a time and cost savings strategy as compared with judicatory or legislative problem-solving processes. The validity of this assertion is not always readily apparent. On the one hand, the DNR can point to the \$25,000 cost and one year duration of the Division of Forestry's aerial herbicide application mediation. The resulting agreement avoided the need for an environmental impact statement which would have taken several years and cost perhaps ten times that amount. On the other hand, one could argue that the \$6,500 DNR share of mediation costs for the Seneca Wastewater Treatment Plant dispute was higher than the cost of a contested case hearing would have been. Part of the problem in making these comparisons is that one is comparing the time and cost expenditures of an actual event with speculation about the expenses of some alternative action which never occurred.

An additional factor to consider is brought out in Ury, Brett, and Goldberg, Getting Disputes Resolved*, which urges organizations to look broadly when analyzing dispute resolution costs. Costs include, certainly, the time, money and emotional energy involved in disputing. But a comparison of resolution approaches should also consider relative satisfaction with outcomes, fairness or quality of the outcome, effects on on-going relationships, and potential for recurrence. In the Seneca case mentioned above, while a hearing may have settled the immediate issues more "cheaply" than mediation, the potential existed for the dispute to recur as subsequent permits came up for review. In the long-term view the mediation probably avoided thousands of dollars in future hearing or legal costs.

A comprehensive look at costs is clearly necessary for a public agency, like DNR, which must take into account factors such as quality of outcome and maintaining productive working relationships with key constituent groups. Where disputes involve these factors, DNR's experience indicates that ADR is consistently less costly than adversarial processes.

Voluntary Process

In the DNR's application, all ADR processes have been voluntary. Mediation or negotiation could not begin without the consent of all the parties. The strength of a voluntary, as opposed to a mandatory, process is that the parties are there because they want to be and are, therefore, motivated to work towards agreement. The fact that parties can quit the process at any time is not necessarily a liability. Voluntary withdrawal is an important safety valve for parties who perceive that their interests cannot be met through continued negotiations. For individuals or groups who are leery of an unfamiliar process, the fact that ADR is voluntary is an important incentive for securing their participation.

ADR groundrules have included a provision for seeking to resolve the concerns of withdrawing parties in order to encourage them to rejoin the process. Participants, including the DNR, retain all recourse to other dispute settlement options while participating in ADR.

One limitation of voluntary participation is the potential for parties to a dispute to enter into negotiations without any intent to negotiate. In effect, they expect a greater

gain through some other dispute resolution means. But, in order to seem reasonable, they sit at they table and stonewall. The survey of DNR managers revealed this problem to be the main reason that some ADR efforts were unsuccessful. As discussed above, the solution is to carefully interview parties before negotiations begin to determine their willingness to negotiate. A mediator will often use a signed commitment to negotiate before proceeding. Another incentive for good-faith negotiations is to require all parties to contribute to the cost of the negotiation.

Mediators: Internal or External?

The value of using a mediator is that someone is available to concentrate on the process, without having a stake in the substantive issues, and is able to work confidentially with all the parties. The neutrality of the mediator is a key consideration in her effectiveness.

DNR has initiated mediated negotiations using both DNR and non-DNR mediators. A mediator from within the DNR is likely to be perceived as biased. In cases where the ADR Coordinator served as mediator, in addition to the credibility problem, the Coordinator found it very difficult to properly advise the DNR negotiators and, at the same time, be fair to the non-DNR parties. To be effective, the internal mediator must segregate himself from the internal discussion of the dispute within the agency, which makes for awkward working relationships. The advantage of the internal mediator is the low cost and familiarity with issues in dispute. However, the relative inability of the internal mediator to offer a full range of services to the disputants can outweigh these advantages.

A mediator from outside the DNR can offer those services and usually does not have the problem of credibility. The disadvantage of the external mediator is usually high cost. Typical fees for a nationally prominent mediator with experience in natural resources disputes are \$100-150/hour plus expenses. The ADR program has begun seeking lower cost mediators through some of the volunteer mediator programs in Minnesota. These programs have the potential to supply skilled, neutral mediators at a relatively low cost.

Reluctance and Fear

For most people, ADR--mediation, negotiation, arbitration--is an unknown. Few DNR managers or staff have had direct experience with a formal ADR process. For many, negotiation conjures up visions of used car purchase experiences where people came away feeling out-negotiated. Some DNR staff, who have conscientiously devoted their careers to resource protection, fear that ADR equals compromise which equals resource losses. Given these misunderstandings, it is not surprising that one limitation of ADR is the reluctance of people to use a process which they think will work to their disadvantage. There is also a preference for people to stick with those approaches to conflict management which have "worked" in the past.

A key to overcoming this reluctance is education and training. This has been one of the objectives of the negotiation skills training effort of the ADR program. The training equips DNR negotiators with the skills they need to feel confident in negotiation situations and orients them to the interest-based approach to negotiations. Furthermore, as ADR is applied more frequently, more people will have the opportunity to see what ADR can and cannot do for them.

Values Conflicts

Many of the disputes involving DNR projects and programs have a conflict over values as one of the components. These values may relate to the morality of consumptive resource use, the regulation of private property, or the clash over humans' proper relationship to the environment. Values conflicts, disagreements involving deeply held moral, philosophical or religious beliefs, cannot be resolved through the use of ADR. At best, a mediator or ADR practitioner can acknowledge for the disputants that a values conflict exists and seek ways to bypass it. But that is not always possible.

The contribution of ADR to dealing with values conflicts, however, is to provide disputants with an accurate diagnosis of the conflict so that they can realize when a values conflict exists. Often the parties are not aware that what they are arguing about are deeply held ideas of right and wrong. By getting the values conflict out in the open, the ADR practitioner can then help the parties find the appropriate forum to address it. In some cases, with the values conflicts set aside, negotiators may be able to proceed to a successful resolution of those issues which do not have a values component.

V. CONCLUSIONS AND FUTURE APPLICATIONS

The DNR strategic planning document, Directions, strongly encourages the expansion of the ADR initiative within the Department. This section of the report suggests how the current program features should be directed and how the program effectiveness can be enhanced through new initiatives. The overall goal is to enhance the comprehensive dispute management services of the program to improve the resolution of the Department's conflicts.

Negotiation Support

Develop and implement a comprehensive pre-negotiation planning program. Negotiation skills training courses stress the critical importance of pre-negotiation planning. DNR negotiators need encouragement and a clear process for performing this essential task.

Continue facilitator procurement services, negotiation consultation services. In cases where an ADR approach is appropriate, DNR staff will continue to need the services which can get a negotiation or some other process up and running. The on-going support of Department negotiators, troubleshooting the process, and monitoring implementation are additional components not provided elsewhere.

Negotiation Skills Training

Continue negotiation skills training for DNR employees. At present, there is a list of 30 DNR employees who are on a waiting list for negotiation skills training. If past trends continue, one could expect that at least twice that many would sign up for additional training seminars.

Provide intensive negotiation skills training for selected individuals. Some DNR staff may be given most of the negotiation responsibilities for their division

because of special aptitude in this area. For these people, additional, intensive negotiation skills training will be necessary.

ADR Applications: Small Case Mediation

Seek additional applications of small case mediation. Most of the ADR applications have involved complex, multi-party cases with negotiations extending over a period of months. However, not all the disputes DNR is involved in fit this pattern. Many are relatively straightforward, two-party conflicts where ADR methods could help relieve staff time and costs. There is a need to give additional attention to alternative approaches for resolving these small disputes as well as the big ones.

Dispute System Design: Conflict Assessment

Develop and implement a comprehensive conflict assessment procedure. ADR has much to offer Department decision-makers in the selection of appropriate dispute resolution methods, whether it be negotiation, litigation, or some other approach. A comprehensive system, possibly employing an operational order, is needed to guide DNR managers from the early-warning stage through a final decision regarding the proper conflict management technique. Careful conflict assessment can avoid the pitfalls of intransigent parties which undermined previous ADR efforts.

Make low-cost dispute resolution an objective in unit work plans. As DNR disciplines revise their work planning procedures during the coming months, low-cost dispute resolution and the mechanisms for accomplishing that need to be components wherever they are appropriate.

Conflict Prevention: Resource Roundtables, Negotiated Rulemaking

Work with DNR project managers to implement conflict prevention measures. Many ADR techniques, such as negotiated rulemaking and policy dialogues (Resource Roundtables), serve the need of the Department to manage programs so that conflicts are avoided in the first place. Many DNR projects require a well-structured public participation effort employing many of the conflict management techniques of ADR. There is a great need for moving from the "DECIDE--ANNOUNCE--DEFEND" approach to "CONSULT--DECIDE--IMPLEMENT".

*Ury, William L., Jeanne M. Brett, Stephen B. Goldberg, Getting Disputes Resolved: Designing Systems to Cut the Cost of Conflict, (Jossey-Bass, San Francisco; 1989)

Appendix A

**Survey of Department of Natural Resources Staff Who
Participated in the Alternative Dispute
Resolution Process**

In order to get the user's perspective on Alternative Dispute Resolution (ADR) effectiveness, the Office of Planning interviewed 22 DNR employees who had been directly involved in some type of ADR during the last four years. The 22 people participated in ten distinct cases. The interview responses reflect the fact that some cases had successful outcomes and did not. This appendix contains the results of the interviews, which were conducted by a DNR student worker from April 11 - May 22, 1991. The persons interviewed are from the Divisions of Fish and Wildlife, Forestry, Parks and Recreation, and Waters.

1. Basic Information

-What was the dispute about?

-What was your role in the discussions?

a. In response to short Canada goose seasons and low quotas during 1988 and 1989, those who rent out goose blinds, small town business people and some hunters from near Lac qui Parle Wildlife Management Area demanded increased income and quotas and longer hunting seasons. Their main concerns were to regain income and shoot more geese. The DNR Section of Wildlife and the US Fish and Wildlife Service (USFWS) could not comply with their demands, because of likely excessive harvest in the Eastern Prairie Population (EPP) of Canada geese.

My role was that I initiated with local concerned citizens and suggested a committee design (6 local members, 1 USFWS, 4 DNR, 2 statewide conservation organization members and neutral facilitator). I also contacted Brian Stenquist for input and requested a facilitator from State Planning (outside DNR to eliminate charges of bias) for the first meeting. I was a committee participant in three and a half meetings, and facilitator for half a meeting.

b. The dispute was regarding the ownership and use of Gordy Yeager Wildlife Management area. Several different parties questioned whether the DNR should have sole ownership or if some portion should be transferred to another agency.

My role was a wildlife representative on the advisory committee. I also provided background information.

c. The discussions covered issues of deer management and harvesting methods. We discussed ideas regarding sharp shooting and public hunts. The sides ranged from those who did not want any animal killed and opposed public hunts to hunters.

I represented the wildlife section. I provided information and the deer management plan. I also was involved in selecting group members, choosing a facilitator, and organizing the first meeting.

d. A concern arose about the level of timber harvest projected. The people involved were from forest industry, environmental groups and the DNR. Our objectives were to:

1. Provide good information
2. Find out what people were concerned with
3. Address the valid concerns

My duty was to be an information broker. I was at the forefront getting the group together. I invited the people and wrote some of the early memos.

e. There has been a public concern for herbicide spraying since 1940. It increased in status tremendously in 1984. It finally came to situation where the environmental group

petitioned EQB. However the DNR had already done EAW. We [DNR] did not believe an EIS was needed. We thought about mediating this concern and the environmental community and industry agreed. We formed a discussion panel; each point of view had 3 representatives.

f. 710 acres of land had been transferred from a defunct state hospital to the Departmental of Natural Resources for a wildlife management area. A portion of this area was only to be used temporarily by the DNR. We [DNR] manage the Giant Canadian Goose Flock and we thought this area would serve perfectly as a source of winter food for them. However, the education people wanted it and other people thought it should be a city park. Legislation was passed to look at the feasibility of a land exchange.

My role was facilitator of the advisory committee, which was to recommend a future land use plan. Don Buckhout came for the first meeting and set the ground rules, but after that I took on that duty.

g. The concern came about after Bill Johnson met with city officials, who stated that they had needs for the land the DNR was currently using for a wildlife management area. The city officials and some people within the DNR thought these needs should be addressed. The city officials wanted the area used for recreational uses rather than a WMA. The conflict grew from here. An advisory committee was created to discuss the issues.

h. The dispute was in regard to writing a management plan. DNR Commissioner Alexander sought input from various organizations and individuals in order to address the wide variety of concerns that existed. I, along with Jerry Maertens, was to represent the DNR during this process.

i. Seneca Wastewater Plant needed to expand and upgrade in order to meet federal regulations. The dispute was that the DNR approved a permit to Seneca, which was in excess of the state law's appropriation limit. The community members were already angry at the Waste Control Board and demanded a hearing. (In an administrative hearing the DNR could have won, if we stuck to the narrow issues.)

My role was as Department delegate, others were called in for technical issues.

j. The topic of concern was chemically treating forest stands. A group was formed to discuss the conflict rather than going to court. The group consisted of members of the DNR, forest industry, chemical industry, and environmentalists against the spraying.

I was Director of Forestry then. It was my job to find a resolution, since I was the figure-head. I was a lead player along with the Deputy-Commissioner at that time. After the process started I played the role of liaison between the groups.

k. Initially the major conflict was related to an environmental groups concerns regarding the expanding forest timber harvesting. The Sierra Club sent a letter to the Commissioner 2/89 regarding its concerns. The forest products industries got involved in spring of 1989. The DNR created a task force from forest industry, environmental groups, and DNR staff wrote a report on the effects of expanded timber harvesting.

My role was as staff to Jerry Rose. I helped in setting up meetings, providing information, and coordinating with the Office of Planning.

l. This was not so much a dispute, but more of a need to develop and implement updated Shoreland Management Rules. ADR was used because in 1987 the established process to revise the regulations encountered heavy resistance from some very key stakeholders.

I was a brand new Division of Waters Director attempting to avoid a civil war. I provided guidance to the line supervisor who participated in the committee.

m. It was not so much a dispute as a concern for Minnesota Fishing quality (fish size, quality...). The parties involved ranged from tour guides to industry to legislators to sport groups.

My role was answering questions and providing information on fishing. I was one out of the six representatives from the DNR.

n. The concern was regarding elk Management. The real issue was the land. The elk were the excuse to pursue the land problem.

My role was to be a DNR representative at the meetings, because I am the Area Wildlife Manager.

o. The DNR proposal regarding designation for Muskellung Management including abolishment of darkhouse spearing for Cass Lake only.

The dispute began before I came to this region. I came in during the second scheduled public meeting. This meeting was never held, rather a series of facilitated meetings began. I was a DNR representative at those meetings.

p. The dispute was regarding the length of the goose season. The community members wanted it to be lengthened.

My role was as a representative of the Commissioner and head delegate out of Region IV.

q. The question asked was, is spearing a proper method to harvest fish and if so what proportion may use this method? It was an allocation issue. The sides of the dispute ranged from those who did not want any spearing to those who wanted spearing on all lakes. Currently, rough fish and northern pike may be harvested by spearing during the winter months. The DNR was caught in the middle, because the legislature allows spear fishing.

Our role was to accommodate both sides...mediation. Personally, I acted as an informational advisor.

r. The dispute involved a neighborhood group, who objected to a DNR appropriation permit for the Seneca Wastewater Treatment Plant. In total, there were between seven and nine groups who wanted to resolve this conflict of interest.

My role was to be Kent Lokkesmoe's alternate. Equally we shared information and acted as spokesmen for the Department. Kent had the final authority on any agreement made on behalf of the Department.

s. The dispute concerned aerial application of herbicide. The environmental community felt it endangered the resources, while the forest managers had an opposing view. This had been a long-term dispute.

I was a technical advisor to the DNR. I also had to implement the agreement.

t. The dispute was regarding appropriate methods of deer management in the Minnesota River Valley. This involved different agencies, four city representatives, several citizens, and several special interest groups.

My role was to act as a state park representative. I provided information about deer, vegetation, and aerial census.

u. It was not a true dispute, rather an attempt to gain an understanding of why the quality of fishing was declining.

I was really an observer, but I gave the welcome speech and acted as host.

v. The mediation was concerning the aerial spraying of herbicides on state lands. There

was a threat of lawsuit, which neither party really wanted. A new idea came into view. The parties agreed to invite all the stakeholders involved- forest industries, chemical manufactures, the environmental groups, and the DNR. The process of choosing the mediator took the longest, approximately a year. This was because lack of trust and unfamiliarity with the system. Once the mediator was chosen and the groundrules were set, we set a time period of six months to attain the negotiated agreement. The issues to be reviewed were human health and safety, environmental quality...

My role was head of the DNR delegation.

w. The situation did not appear as a dispute rather as a difference in opinions regarding the quality of fishing in Minnesota. It could be considered a special issue or policy dialogue rather than a conflict. It involved professional fishermen and state agencies.

My role was to provide the logistical information on the resource. I helped develop the agenda and the contract.

x. The dispute was regarding the goose quota. The community members wanted the harvest to last through MEA weekend.

I led in establishing these regulations. Therefore I was an active participant, adding information when possible. I spoke for the DNR regarding rising the quota to 6,000 or 7,500 geese.

2. What was the outcome?

a. The DNR was made aware of the local economic motivation and conveyed to local committee members the biological information considered in setting the Canada goose season in the Lac qui Parle and West Central Goose Zones. The FWS agreed that longer seasons and increased harvest would be possible if an accurate harvest monitoring system were implemented and the EPP continued to increase. The locals rejected the proposed acceptable monitoring system (tagging) and renewed their demands. We [DNR] agreed to make a few changes in regulations and implemented a 3-year after-the-season mail harvest monitoring system to determine hunter numbers and actual goose kill. Local members were less than enthusiastic about the mail survey and pushed their earlier demands.

b. The outcome has not yet been reached. We are drafting a recommendation for the resolution now.

c. An agreement was reached and a document was created detailing the possible options of the recommended deer management program. Also provided for review of the task force recommendation, annual meeting will be held to modify the hunt when needed. The plan is feasible.

d. The first effort fell apart. Don Buckhout lined up an Administrative Law Judge. We were making headway with the traditional environmental groups and industries. But the non-traditional group were not attempting to assist this process. They had a hidden agenda. They petitioned the EQB for a GEIS.

e. The outcome was a mediated agreement. It discussed each groups tasks. The legislator addressed the concerns for the industries and environmental groups. It addressed the DNR changes and how the other groups were to support them.

f. The Department agreed and accommodated the education people. There is not a formal plan at this time. However when one is created, the education interests will be accommodated. They will have to mitigate, securing another area of cropland for the geese.

g. The outcome was an advisory committee. The panel was chosen by the Regional Administrator and the Commissioner's Office. No environmental groups were invited, only agencies and a lot of local people.

The panel has met for two years. Also a legislative representative has gotten involved.

h. An draft elk management plan was written. This would have been completed without mediation, but the intent of this process was to produce a better elk plan based upon input for very diverse interests.

i. A mediated settlement was the result. However, the group was too big and filled with too many laymen. We had no problem with the city staff, but the public was very vocal. The information session were probably quite helpful, but were lengthy.

The settlement was rather meaningless. The plant was still built, and we [DOW] acted in the same manner; we were protecting the area.

j. The outcome was a mediated settlement. This was very close to what the DNR was already doing.

- k. An administrative law judge was hired to facilitate meetings, which worked well. However, the process fell apart when a group of northern Minnesota citizens petitioned the EQB for the GEIS. The report envisioned by the DNR was never created, and the people involved almost unanimously agreed it was better to go on the GEIS route.
- l. The outcome was new rules, which were tougher than those originally proposed. The implementation and public hearing process met with minimum difficulty, since the stakeholders were involved early on.
- m. The outcome is a report that identifies areas addressing specific needs. These include such topics as education, habitat, and individual water management.
- n. The outcome was "no agreement."
- o. A decision was made and adopted following three facilitated meetings. Thus there would be a closing on dark house spearing for ten years. After the ten year period is over the department must evaluate the effects of the regulation and continue or abandon the regulations.
- p. The outcome was mixed. The goal of lengthening the season was accomplished. However, the community members created more goals as the sessions continued. Another can of worms was opened. There was no consensus on the method of conducting a survey on hunting. The state arbitrated the three dollar permit system, which led to a legislative bill repealing the three dollar permit.
- q. It was not satisfactory. One group did not want to give up. A consensus was never formed.
- r. The outcome was a series of recommendations to various parties. The tasks were distributed between Metropolitan Waste Control and the DNR. All parties but one agreed to this arrangement.
- s. An agreement was achieved after six months and nine meetings. This agreement was in two parts:
1) The DNR duties
2) The industries and the environmental communities duties
Specifically, the DNR task was a six year agreement to only spray 3,500 acres.
- t. There were several facets to the outcome:
1. Alternative for deer control agreed to by all.
2. A document summarizing the meetings.
3. A better relationship with the parties involved in the task force.
- u. The result was very successful. A published report states the strategies we formulated.
- v. These gave the environmental parties knowledge and then they wanted to bargain. (which I thought was breaking the groundrules) They wanted a reduction in aerial application. They thought it was okay if spraying was during stages when wildlife would not be severely impacted. The environmental coalition also wanted the DNR to value all species the same, regardless if white pine or brush. The coalition thought that selective spraying rather than broad spraying should be considered. (This may not be economically feasible.) Therefore the DNR brought back a counter proposal, which said the DNR would consider a reduction of its herbicide program. Approximately 3250-3500

acres were agreed upon for aerial application. All parties agreed to the fact that more research and better access to the forest lands were needed. The industry was to support research and the environmental coalition would support roads.

w. It was satisfactory. The groups participated fully. A positive response was yielded. A consensus was reached and a publication regarding the meetings and the agreement was created.

x. We made no headway. It was not successful. Although we did gain an understanding of the other point of view and educated the people.

3. Do you think the outcome was successful?

-If yes, in what way?

-If no, was the problem the people, the process, the preparation, or something else?

a. The outcome was partially successful because a conclusion was reached, but the local committee members were not satisfied. The DNR conveyed complex goose management information and generated resource support statewide, but economics and shooting high numbers of geese seemed more important to the local committee members. While we agreed with them to change regulations a little for three years, they objected to implementation of an accurate mail survey during the same period for determining hunter numbers and goose kill. Good post-season survey data will pave the way for an accurate and timely harvest monitoring system, ending a decade of confusion produced by inaccurate data, a complicated index, and allowing the DNR and FWS to expand seasons when EPP numbers are above goal.

This was a classic resource dispute. The DNR and FWS must protect the EPP from over-harvest, while the locals were demanding loose recreational opportunities. The local members were often highly contradictory and unpredictable, sometimes changing positions 180 degrees between meetings. Don Buckhout and Roger Williams were prepared and performed well, but reaching consensus was probably not possible.

b. It is premature to say it has been successful. I can not say until the recommendation report is complete and implementation has occurred. The advisory committee and the individual agencies' higher authority have a lot to do yet. The process will not be complete until the DNR buys alternative land.

It has taken a long time. One reason is the fact that the DNR's position on the onset was weak. The DNR was trying to satisfy everyone's needs rather than saying the land was priceless and essential. The other parties are looking for future use and the DNR needs the land for today.

c. As successful as it could be with all the diverse backgrounds of the people. The animal protection people agreed to killing animals, but bow hunting could not be used as a management tool. As far as exactly how successful, we do not know yet. Some facets of the program are not stable, because people still may protest.

A problem myself and others saw was the fact that a very small group, because of their intensity, were given more power than they deserved. People thought it maybe anti-democratic. The vocal minority used the power to get their own way. Specifically, I believe the animal rights people were given more power than normally would have been allocated.

d. It was unsuccessful. The entire ordeal received very bad press. The people were the problem. The non-traditional groups were not interested in a solution. That left the rest of the group very frustrated.

e. The outcome was really successful in the early stage. Better appreciation and understanding were gained for each groups' concerns. But it broke apart; the DNR did its duties. But the cooperative efforts for access and research did not appear. The cohesion fell apart.

Another problem was the timber harvesting issue came on the heels of this dispute; the same people were involved. Instead of building off this established relationship, the group went back to the old method of an EAW. Since then we have had a meeting.

The problem from the beginning was that the highest management level was not present from either the DNR or industry. Therefore after discussions at the table the decisions were to be weighed in light of the industry or DNR needs.

All in all we did dissolve a 30 year dispute.

f. It is not over yet, so it is difficult to tell how successful it has been. However all agreed to the concepts and we are now merely fine-tuning the language. We will also have to secure money. Since this project may impact surface water, we needed to design a stormwater management plan.

The group has run into a couple of problems. The members of the group have changed. The governor has changed also. Therefore political goals may change also. The group has to reinform all these new parties, which takes time. So, the process I thought was going to take a year has already taken two years.

A point of success I can already see is the probable future cost savings by avoiding a major conflict. We have established a much better working relationship with the members of the committee.

g. The issue has not been resolved, yet. The problem falls under the category of the people. The Commissioner's Office never clarified the issue. There is a communication gap between the Regional Administrator and those around him. The city officials and the legislators desire yield an even more complex problem.

However, the initial conflict has been mediated and I am comfortable with the resolution. All agreed to uses with mitigation.

h. The outcome was unsuccessful, because we did not have the intended roundtable discussions with the farmers. The farmers refused to meet with the group. Another problem may have been that the law had already been passed which addressed the farmers' concerns. They may have felt, they had nothing additional to gain through this process. I also had the impression that they would not participate with a facilitator employed by the State of Minnesota. Phyllis Rhea was the facilitator and although she was non-DNR, she was not non-state.

i. The outcome was successful. But it cost four times what the administrative hearing would have. The Administrative Law Judge cost seventy dollars per hour. The distribution of the cost was a definite success, splitting the cost among all public entities involved.

The mediation accomplished what it said it would. There were problems...the other issues (odor control, noise...) which were not within the DNR's jurisdiction. Again the group was too big and too many laymen involved. The process took too long and there was at least one member that should have not been involved.

j. The DNR did not have to give up much ground, but it appeared to. Since, the mainstream environmental people had more important concerns, this was not a major problem. Those environmentalists outside the mainstream drove the process and involved the media. It was a success, especially when considering all the information shared.

Some components of the settlement have not been upheld. This would be the only unsuccessful area.

k. The outcome was mixed. A foundation for communication was built between the polarized groups, which has been helpful during the GEIS.

However, no product was created by the DNR convened task force and no agreement was reached even on basic issues. The process was superseded by the GEIS and the DNR lost direct control. A major reason for this outcome was that the GEIS

petitioners used the media effectively to undermine the task force's credibility.

The process used to create the task force would have been improved by advance communication between facilitator and the key participants, as Don Buckhout suggested at one time. This would have created more common ground.

l. It was certainly very successful. We had broad support rather than broad opposition. Cooperation involving the public with our decision making process really benefited the acceptance level.

m. I think it was a real successful first step. It was beneficial that the meetings were not DNR facilitated, the people involved really enjoyed it. The meetings were open for anyone's input.

However, on the last day we did not close as strongly as we should have. The areas were general and the people want specified steps to ensure actions were taken. The facilitators weakened and people rambled.

The problem was that the goals of the meetings were not clearly explained. Once goals were set, they needed to be reinforced, throughout the meeting.

The people and the preparation were good. The process needed to be more defined especially in the last three hours of the meetings.

n. The problem was that there was already a law established and the law should not be mediated. I did not expect a solution. I would not have cooperated if I were a farmer. Therefore the problems were the people and the process trying to undermine the law.

o. All participants in the facilitated meetings were not satisfied with the outcome. This warrants some explanation. No consensus was ever reached, but a decision was made by the DNR Commissioner based on available data.

The outcome was successful in that it exposed a lot of information to many people on both sides of the issue. The factions participating did not reach consensus because of the original time line and battle lines were firmly drawn.

p. This was not a simple two-sided issue. There were many wild cards: Federal Fish and Wildlife and Flyway Council. We could not speak for these groups, because no one had the authority to. Yet the final say in the matter would have been theirs. Thus there were not only conflicts in view, but in authorities also. We were forced to do the best we could, if the federal agency did not approve of the program they would not extend the season.

The basic problem was that trust was never established. The small amount that may have begun was later broken, when the locals ran to the governor and the DNR proceeded with the three dollar permit.

Also facilitation was alternated between people and this did not help.

q. The people were the problem. They had political power and did not want to resolve the conflict through this manner. We never found common ground. Therefore the DNR pulled out of the situation.

r. The result was a mixture. The process was successful in educating the citizens. It built an understanding between the groups. A greater sense of trust was created.

The failure came when it became apparent that the people were not interested in finding a solution. Rather, they desired to delay the plant's expansion.

The Administrative Law Judge perhaps should have curtailed some of the citizens' emotional speeches.

s. The outcome was partially successful. It was successful in the fact that the DNR

achieved its targets. It ended the major controversy with the environmental community. It was not successful, because we did not address the true environmental community's concerns. Also the DNR never received the funds they agreed to give us.

The major problem was that there is no accountability. The DNR did the physical aspect, but we received nothing. Without accountability nothing is holding the people to the agreement.

It was a good process. It was very productive and intense. But one problem was the people who participated on the ground level were not the ones who could implement the change. In some cases the members have changed jobs; this also has caused a problem.

The failure of this case has further caused field service people to distrust ADR. Their future support for the program maybe difficult.

t. Yes, it was successful, which was surprising because of the varying backgrounds of the people. This agreement is a start and outlined the areas that need attention. The task force believes in the alternative agreed upon, although it will be very difficult for the DNR to implement it.

u. The groups worked well and dividing into subgroups aided the process. However, a retired employee showed up and caused some difficulties.

v. Yes, in a way. The meetings made some people much more informed about aerial applications.

It was unsuccessful in that things called for have not happened. The DNR has held up its part fairly well. But the money from the other groups for roads and research has never come.

The folks involved could not speak for the organizations as they are now. They represent stakeholders, but once they were gone from the scene, the organization does not hold the agreement as a priority. (examples Rip Rapson and Nelson French)

There was a breakdown in support. Once the article was written in their firm's newsletter, it was forgotten.

The environmental coalition had a lot of different issues (hidden concerns about timber harvesting and the GEIS). Spraying was a surrogate issue.

We never studied the issues that we started on in the beginning.

Since the agreement became non-binding, ADR may have lost some credibility. The other groups never held up their end. This may not be because of lack of trying. The industry pursued road funds.

w. The parties disputed at times, but on the whole it flowed well.

x. We never formed a consensus. The fault was with the people and the preparation. The community members had dug in attitudes. They had vested interest in this project. They have always opposed us and the project. There was no compromise, because they came in with a hidden agenda.

An agreement was never found, because the groundrules were broken by the community members. This led to a legislative battle.

Secondly, the preparation or process did not work. The facilitators split the time. Don Buckhout and Roger Williams were the facilitators and one would come each time. This wasted much time. The people were against Don, because he was from the DNR. He seemed to be confused as to what direction the conversion was going. He irritated the people with this lack in direction. On the whole, Roger did a much better job.

4. Can you think of any instances where ADR might work well?

-Are there cases in which ADR should not be used?

-Would you ever advocate use of ADR again?

a. I have successfully used ADR techniques in settling many internal and external issues. Perhaps training videos could be produced so that field personnel can solve more of their own disputes.

The Office of Planning ADR services are most valuable when the issues are hot, complex and/or a neutral facilitator is necessary. Issues where the resource will be destroyed and we must clearly take a stand are probably not issues for ADR.

I believe the ADR techniques are useful and effective. It is likely that I will request assistance again if we run into difficulty settling a complex issue.

b. One has to be careful using ADR, the DNR can not afford to give away land/resources. In this particular case, it has taken a lot of effort by the DNR and little by the other parties.

I would advocate the use of ADR again. But it all depends on the issue and who is willing to be involved.

c. The instances where ADR maybe used are situations less philosophical and polarized. It should be used rather for information or in a management area without a fundamental dispute when people feel unheard.

d. The instances in which I would advocate the use of the ADR process is when all groups are truly interested in a solution. All members have to be willing to listen and make decisions not with values alone.

I think it is the management's decision whether or not to use ADR. People need to be sensitized and taught how to make this type of process work.

e. The issues of timber harvesting is an instance were ADR should work well. The GEIS is not going to resolve the conflict. The Forest Service has not solved the problem with that method.

ADR (the formal process) should not be used with a trivial issue. It should involve the upper level management in an important concern.

I did advocate its use in the timber harvesting issue. The success rate is proportional to the commitment level on either side. A lot of people may try to use ADR as a delay method. This should be considered before applying ADR in a case.

The problem with ADR is the concept of success, one out of three may not be a bad rate. The mainstay is the development of communication lines.

f. One has to have the time and the interest with no legal constraints to use ADR. One must have workable options.

If one has a legal mandate, then ADR may not work quite as well.

I may advocate the use, it depends on the risk. We did a risk assessment before we got into this advisory committee.

g. I would like to see ADR have a regional presentation to clarify the program or a state-wide disciplinary orientation presentation.

Yes, I would advocate ADR's use.

h. ADR may work with in-house problems. A dispute between divisions would be an

example. I do not think ADR should be used where the facilitator is an employee of one of the parties involved, no matter how far and neutral-appearing the facilitator may be. It is extremely difficult to convince people that the facilitator is truly neutral in those kind of situations.

i. It can be used in lieu of contested case hearings for permits, which are denied. Using ADR, one can negotiate and do without a hearing. The regional hydrologist and other administrative staff already do this on an informal basis without formal ADR process. In certain cases the formal ADR process would be beneficial. The biggest concern is cost. Using Don Buckhout is less costly, but the ALJ is very expensive.

The field staff uses it informally all the time. There are some benefits. People talk to each other and the DNR.

j. I would not advocate the use of ADR if both parties do not have equal interest in the solution. There has to be structured base early on for ADR to work. On the whole, I would advocate ADR's use.

k. Yes, we [Forestry] are using it now in cases. It works in cases where there are external polarized views. It is tough if the conflict is purely internal. Then an outside facilitator should be used.

l. There are all kinds of instances in which ADR may work: permit disputes, power plant licensing, instream flow regulations, and old historic disputes. It could even be used internally, for example between forestry and wildlife discussions.

ADR should not be used where the DNR has a firm bottom line. because of the regulations or resource need.

m. There are numerous instances to use ADR: habitat management conflicts, multiple-use... ADR's formal process should not be used with too simple of a problem.

I certainly would advocate ADR's use.

n. I can not think of any instances where ADR may work well. However, I may advocate it in the future.

o. We have used the ADR process in other instances. For example, the Roundtable discussions. The ADR process should be used in a large resource issue with a sizable economic and social consideration.

The ADR process should not replace normal managerial processes or counteract agreements that are already working. Sometimes time does not permit ADR use.

Yes, I would advocate its use.

p. ADR is continuously being used as an informal process. The formal process usage may have to depend on what the outcome could be.

I would advocate the future use of ADR. It is helpful when a trained facilitator yields a resolution. However, I would not suggest its use when parties involved are immovable. The decision makers need to be there. The agenda must be identified clearly to make sure the process will remain in control.

q. Yes, there are situations that ADR might work. ADR would work in multi-party conflicts.

However, it should not be used when a resource is in jeopardy.

r. Permits are an excellent example of where ADR is used informally. We need to train the field staff in ADR. Also, we need to realize that this process is used continually in

many sections of the DNR.

Yes, I advocate the use of ADR, but it should be used cautiously especially when dealing with NIMBY situations.

s. If there was some form of accountability, I would use ADR. It should be used in implementing the agreement, not just achieving an agreement.

To answer the question regarding advocacy, I do not know. I would like some guarantee to people's actions.

t. In general, I would recommend ADR during the planning process. I cannot think of a time when I would not use it. To summarize my thoughts, the process is longer and involved, and the people participating must have patience. However, it is very worthwhile and necessary to gain the understanding of different views.

u. Yes, there are many disputes in which ADR maybe used. All have to approach the problem with a commitment to find a solution.

ADR should not be used if actors involved are dug in and will not compromise. The DNR should have the last word in mediated cases. For example, it would not be beneficial to use mediation with animal rights people.

v. It works well with uninformed people. The reality is different than the perception. DNR does site assessments. There are no rash decisions. Before this the industry thought they knew us, but they learned some new information also.

ADR should not be used with clashing values. It is like locking two people of different religions into the same room and telling them to make one religion. ADR cannot be used in strictly economic or financial cases. In policy questions ADR can be used, but not financial.

w. Same as answer 4(p).

x. Same as answer 4(u).

5. Regarding the support services from the Office of Planning's ADR program:

-What services were provided?

-What was helpful?

-What was not helpful?

-If Don Buckhout served as the facilitator for the discussions, do you think it would have been better if a non-DNR neutral facilitator were used instead? why or why not?

-What else could have been provided that you think would have helped?

a. The Office of Planning provided information on strategies and objectives and furnished facilitators. Groundrules were agreed upon by the group and facilitators kept the group on course. There were few objections to having a facilitator from the DNR, although the local committee members were less than kind to Don Buckhout during one of the meetings. As mentioned earlier, ADR techniques and information provided at field stations could increase dispute resolution skills for the DNR statewide.

b. Don Buckhout came down from the Office of Planning and attended some meetings. He also advised us with strategies and advised during committee formation.

One thing was not accomplished. A management plan was to be developed by the Office of Planning, but we never got a finished product. This was disappointing for us, because the people on the panel expected a "slick copy" plan from the DNR.

Don Buckhout was not the facilitator. At first it did seem odd that Bill Johnson was the facilitator. He tried to be neutral, but some people saw it as a conflict in interest, since he is an employee of this agency. Perhaps Bill should not have been the facilitator, but he has done a good job.

c. The Office of Planning offered a lot of good support. Don Buckhout summarized the meetings notes and sent the mailings. All was done well.

I do not think the use of Don Buckhout was a negative. The members were asked going into the meetings if it was a problem.

At times some thought Don leaned toward the animal rights people. This turned off those people. It was especially bad when they could make personal attacks. In these cases, I feel he gave them too much leeway. At times, things drifted too much. But all in all, it was good Don was there, because he understood the issue and the DNR system.

d. The Office of Planning was very helpful. Don Buckhout was always available and never pushy. The training was especially helpful. Don attended the early meetings, talked to various parties, and set-up the meetings.

The Administrative Law Judge did a good job. It was a good idea to choose the facilitator from outside the DNR. However, if there is a dispute within the Department, a facilitator from within the DNR could be used.

e. Don Buckhout was one of three members representing the DNR point of view. He helped orchestrate the process, while the other two members were technical advisors. Don kept internal contacts with the Commissioner's Office. He coordinated other views and perspectives.

f. The Office of Planning provided background documents, a draft of the management plan, created a report to the legislator, and a facilitator.

Don Buckhout was our facilitator, but only for the first meeting. We decided not to hire outside help, after broaching the issue at the first meeting.

Another service that would be helpful is a pamphlet on tips of ADR's process.

g. The services provided by the Office of Planning that I was involved in were the in-house mediation and assisting with writing the management plan. The mediation service was especially helpful and the effort in the creation of the plan was greatly appreciated. There was no problem with Don Buckhout being the facilitator because the controversy was mainly in-house.

h. ADR services included providing the individual (Don Buckhout) to help bring the "sides" together and a mediator. The ADR people were over-confident that they could resolve the problem, and did not listen closely enough to the concerns of those who had been involved from the onset.

i. The Office of Planning was not directly involved with this case. Don Buckhout attended a third of the meetings. He did inform us on the discussion process, how to work the group, and provided some background information.

The question regarding the facilitator depends on how well the group is willing to accept a DNR employee. The price is right.

j. The Office of Planning came in late in the process. They may have offered some advice, but this was before the ADR program was truly functioning.

In this case a non-DNR facilitator was helpful, especially in scoping. If the conflict was within the DNR, an employee of the Office of Planning ADR program may be used. ADR may be better used if the program took a more pro-active role.

An important consideration regarding the facilitator, besides merely their past profession, alliances, and memberships, is their knowledge about the topic in dispute. They should have a working knowledge of natural resource issues.

k. The Office of Planning hired the facilitator, provided research information, and offered ideas on strategies.

Don Buckhout was not the facilitator. However, he did give us an understanding of the procedure and how it should and should not work. It was beneficial that the facilitator was not from the DNR.

l. The Office of Planning provided education regarding the process, a facilitator, regular advice, and counseling to staff on the progress of the process. All services were very helpful.

Don Buckhout was the facilitator and it did not make a difference. He went to extreme lengths to keep neutral. All involved understood the purpose of the program.

m. The Office of Planning provided the communication and planning for the people involved in the roundtable. It was beneficial that they took on these duties and it was detached from the Fisheries Division.

It was good that someone from the DNR did not facilitate the meeting. People were more open with their thoughts.

The process needed to be defined better in the preparation. This would have allowed the people to feel like they accomplished more.

ADR needs to advertise more. People within the DNR do not know the services available to them.

n. The Office of Planning assisted us with trying to get meeting established and inviting the groups involved. These services were somewhat helpful. What was not helpful was the fact that Don Buckhout and Phyllis Rhea were facing a dispute the law had settled.

Phyllis Rhea facilitated the meetings. Don could not have done any different.

As far as what else could have been provided, nothing absolutely nothing. The farmers had the law on their side - to reach an agreement they would have had to give something up.

o. The services provided by the Office of Planning were a facilitator, background information, meeting notes, and assistance with setting up the process.

The perception by some, when a DNR person is the facilitator, is that he/she is just another DNR person and the potential to mistrust the process is real. However, any state employee, regardless of the agency they come from, may cause this same problem. Clearly there are some cases when a DNR facilitator would not be welcome.

p. The Office of Planning was very helpful. They provided a facilitator, actually there were two Roger Williams and Don Buckhout. Roger did a professional job. By the time Don came in goals were multiplying and expanding. It became confusing as to what were really goals and what was actually strategies.

I believe we should have stayed away from a DNR employee. There was a low level of trust for any DNR employee.

A helpful addition would be to have someone always taking accurate minutes and documenting them in a timely manner.

q. They were quite helpful. The Office of Planning aided in the setting up of the process, inviting people, arranging the meeting rooms and facilitator, keeping notes, and providing information.

It was important that Don Buckhout was in the DNR, because he was familiar with the issues. However, it was probably more important that he was not from Fisheries. He interacted well.

r. Don Buckhout came to some of the meetings. He observed and later advised us. This was very helpful to gain an unattached viewpoint.

The case was facilitated by an Administrative Law Judge. The people did not trust the DNR or the MWCA. Her past experience helped the people understand the process. The residents seemed to learn a lot.

s. The support from the Office of Planning was very helpful. Don Buckhout was excellent. He broke down the issues and made the process go a lot more smoothly.

Don Buckhout was not the facilitator. He brought in the Commissioner's perspective.

t. The support services provided by the Office of Planning were a facilitator, who sent out meeting notes, agenda, and wrote the report. If it this would have been left to the committee, it would have never been done.

The facilitator needed to be neutral and could not have been from within the meeting group. At first I wondered about whether or not the person should be from the DNR. But Don Buckhout did a wonderful job. The reservation I have since the program began regarding Don is that he talked to certain people outside the meetings. This made the others feel uncomfortable and confused as to what they had discussed.

u. It created a level playing field. All opinions were equal. The facilitator did an outstanding job at opening up the people to accepting ideas.

A problem did arise. The last facilitator was weak; she did not wrap-up the situation well. Sue Laxdall did step in and proved to be very helpful.

v. The services are interesting and make sense. The concept of training, which will allow everyone to be on the same level of knowledge is helpful. Hopefully, there will be no tricks or political ploys this way.

As far as Don Buckhout's services to us, he was not the facilitator. However, he did do

homework for us.

w. The service included information, arranged resources, and taking care of logistics. I think it was good that the meetings had a facilitator outside the DNR. The people showed that they did not want the DNR to run the show. They wanted their view heard.

x. The Fish and Wildlife people gave the background. All the people in the room knew more about goose management than the facilitators. Knowledgeable facilitators would have been helpful. Although in some cases the facilitator does not need to know about the topic, in this dispute I feel it would have been beneficial.

