


EPA United States Environmental Protection Agency
2011 Community Involvement Training Conference
Community Involvement in the 21st Century: Embracing Diversity,
Expanding Engagement, Utilizing Technology

Welcome to the online broadcast!

Engaging Diverse Communities through
Mediation: Superfund on Tribal Lands and
Environmental Justice
July 20, 2011 8:00am
Anna Abbey



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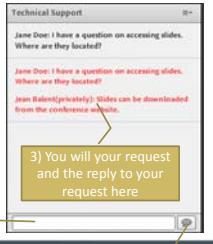
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Thank you!

Let's begin today's session!

ENGAGING DIVERSE COMMUNITIES THROUGH MEDIATION AND FACILITATION

July 20, 2011 Anna Abbey, Mustafa Ali, Suzi Ruhl, Danny Gogal

Introduction

CPRC and OEJ

Introduction: CPMC


The purpose of EPA's Conflict Prevention and Resolution Center is to make agreement easier and engage the public.

CPRC does this by:

- Coaching, advising and consulting with clients about environmental cases.
- Providing access to mediators and facilitators through our contract.
- Teaching EPA staff and managers skills to help prevent and defuse conflicts in their environmental projects.

Introduction: CPMC

- CPRC has worked on:
 - More than **150** cases of mediation or facilitation
 - Within the last 2 ½ years alone
 - In every region
 - Dealing with every program office



Introduction to OEJ

EPA's goal is to provide an environment where all people enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making processes that maintain a healthy environment in which to live, learn, and work.

OEJ does this by:

- Coordinating EPA's efforts to integrate EJ into all policies, programs, and activities.
- Providing information, technical and financial resources to communities and EPA to meet their EJ goals.

What is engagement?

Understanding the terms

What is engagement?



Other names for engagement

- Public Involvement
- Public Participation
- Community Engagement

Definitions

- **Public involvement** is the full range of actions and processes that EPA uses to engage the public in the Agency's work.
 - **Public involvement** means that the Agency considers in its decision making the:
 - Concerns
 - Values
 - Preferences
- Of anyone who has an interest in an Agency decision.

(EPA's Public Involvement Policy, 2003)

Definitions

- **Public Participation**- the process by which public concerns, needs and values are incorporated into governmental and corporate decision making.
- It is a two-way communication and interaction, with the overall goal of better decisions that are supported by the public.

(Creighton, The Public Participation Handbook, 2005)

Definitions

- **Community engagement** is the process of working collaboratively with groups of people to address issues affecting their well-being.

(CDC, Principles for Community Engagement, 1997)

What are mediation & facilitation?

Understanding the terms

Definitions

- **Mediation** is a process in which a neutral third party (the mediator) assists disputants in reaching a mutually satisfying settlement of their differences.
- **Mediation** is voluntary, can be informal or formal, and is confidential.
- The mediator:
 - ▣ Helps the disputants to communicate clearly, listen carefully, & consider creative ways for reaching resolution.
 - ▣ Makes no judgments about the people or the conflict, and issues no decision.

(www.intranet.epa.gov/adr)

Definitions

- **Facilitation** is a process used to help a group of people or parties have constructive discussions about complex or potentially controversial issues.
- The facilitator:
 - ▣ Helps the parties set ground rules
 - ▣ Promotes effective communication
 - ▣ Elicits creative options
 - ▣ Keeps the group focused and on track

(www.intranet.epa.gov/adr)

Definitions

- **Alternative Dispute Resolution (ADR)** is "any procedure that is used to resolve issues in controversy, including but not limited to:
 - ▣ Conciliation
 - ▣ **Facilitation**
 - ▣ **Mediation**
 - ▣ Fact finding
 - ▣ Mini-trials
 - ▣ Arbitration
 - ▣ Use of ombuds
 (or any combination thereof)

(EPA's ADR Policy, 2000)

How does it work?

Mediation and Facilitation as tools for engagement

Small group discussion



When to use mediation and facilitation

- Adversarial relationships
- Dealing with difficult people
- Low trust situations
- You don't have enough time to manage all the pieces
- You have too many roles in the situation
- You don't have all the skills necessary
- It's just not your "thing"

EPA's use of mediation and facilitation

- Adversarial access agreements
- Mediate PRP response negotiations
- Negotiate jurisdictional disputes
- Facilitate CAGs, or other groups
- Facilitate angry public meetings
- Design and facilitate public engagement processes
- Do situation assessments
- Mediate/facilitate MOUs
- And so much more....

SUPERFUND ON TRIBAL LANDS

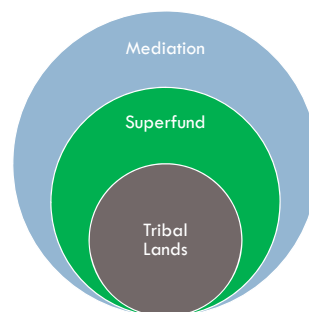
July 20, 2011

Anna Abbey & Danny Gogol

Introduction

The Assessment

Introduction: The Assessment



Introduction: The Assessment

- Third party neutral interviewer
 - ▣ Dr. Teresa Michelsen of Mediation Solutions
- 7 Superfund sites
- 27 interviewees
 - ▣ EPA staff
 - ▣ Tribal members and representatives
 - ▣ Mediators and Facilitators

Tensions

Historical Context

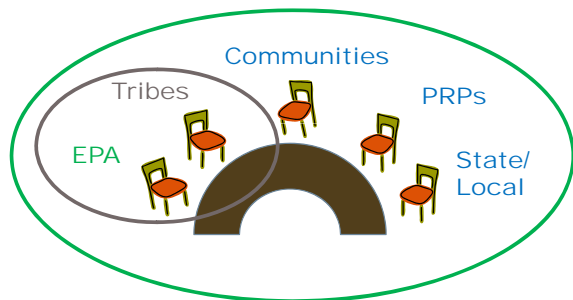
- EPA and Tribes
 - ▣ Historic injustices by federal government
 - ▣ Long memory
 - ▣ Trust issues
 - ▣ “Just a job” vs. a stewardship lifestyle
 - ▣ Place-based governance
 - ▣ History is always present in processes



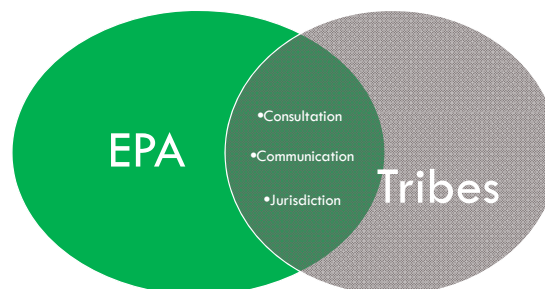
Community Context

- PRPs and Tribes
 - ▣ Trust issues – conduct of RI/FS
 - ▣ Poor enforcement
 - ▣ Emotional, cultural and economic impacts
- Tribes and communities
 - ▣ Economic and development issues
 - ▣ Racial prejudice
 - ▣ Different priorities

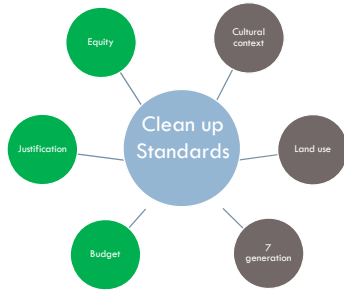
Seats at the Table



Shared Issues



Lower vs. Higher Cleanup Standards



Use of Mediation and Facilitation

Reasons for Initiating ADR

- Increasing trust between agencies and tribes
- Find better ways to communicate and share information
- Improve working relationships
- Reduce conflict
- Better understand issues
- Better explain decisions
- Educate parties/public

Nearly all were **relationship** or **communication-based**

ADR Best Practices

- Mediators produced positive results by:
 - Managing negative behaviors in meetings
 - Demonstrating empathy and neutrality
 - Bringing structure to the process
 - Helping parties move beyond the past
 - Maintaining a calm and respectful demeanor throughout heated discussions
 - Using flexible approaches as called for
 - Working with parties to build and maintain commitment to the process
 - Promoting healing and trust-building

ADR Results

- Improved communication
- Constructive information-sharing
- Better understanding of each other/issues
- More positive relationships
- Greater mutual respect and support
- Improved trust
- Feeling heard
- Substantive achievements
- ADR could be phased out

Recommendations

Recommendations: Mediation and Facilitation

- Situation assessment is critical
 - ▣ Assess issues and timing
 - ▣ Assess willingness to work together
 - ▣ Learn tribe-specific history and cultural information
 - ▣ Design customized process
 - ▣ Prepare parties for ADR from an emotional, process, and substantive standpoint
- Include tribe in selection of practitioner who has the trust of the community
- Use a practitioner with tribal experience and/or a native practitioner

Recommendations: National/ Regions

- Clarify consultation
- Define tribal trust responsibilities in the context of Superfund
- Develop Inclusive Culture
 - ▣ Training
 - ▣ Hiring
 - ▣ Flexibility and responsiveness

Recommendations: Site Managers

- Spend time upfront
- Understand each tribe's government
- Seek parity in government to government
- Provide technical, financial resources for the tribe to participate
- Listen, be open-minded
- Take a longer-term view of protecting human health and the environment
- Emphasize teamwork
- Address environmental justice issues
- Engage the tribe in work
- Avoid giving cultural offense or breaching protocol

Conclusion

- Study available online:

<http://intranet.epa.gov/adr/downloads/superfund/SuperfundonTribalLands.pdf>

ADR & EJ

Mustafa Ali & Suzi Ruhl

Definition: EJ

- **Environmental Justice (EJ)** is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

EPA has this goal for all communities and persons across this Nation.

(www.epa.gov/environmentaljustice/)

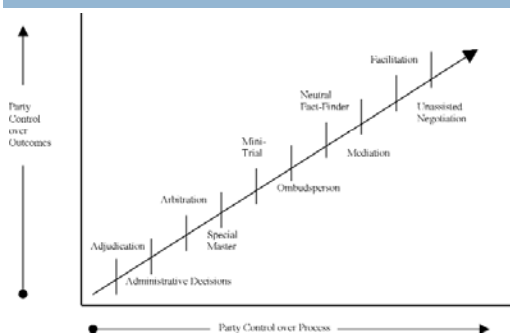
ADR & Environmental Law



ADR for Communities



Benefits of ADR to Communities



EL ADR Training: Lessons Learned

- Training on ADR and environmental laws
 - ▣ Expanded capacity
 - ▣ Increased participation in decision-making
- Workshop's networking benefits
 - ▣ Expanded community participation
 - ▣ Unified their voice
 - ▣ Foster learning from others
 - ▣ Teach others skills learned

ELADR Training: Best Practices

- Networking
 - ▣ Learning from each other
 - ▣ Connecting with allies
 - ▣ Connecting with organizations that can help
- Outreach
- Empowerment

ELADR Training: Best Practices continued

- ADR Skills
 - ▣ Negotiating with outside groups
 - ▣ Resolving differences with allies
- Public Participation
- Environmental Information and Law

ELADR Training: Resources



http://www.eli.org/pdf/community_resource_center/ADR_handbook.pdf

CONCLUSION

What now?

Resources

How do you access mediation & facilitation at EPA?

CPRC

For your enforcement action, site decisions, or public engagement processes

- We can help you:
 - ▣ Identify and rapidly contract for facilitators and mediators
 - ▣ Find the funds to pay facilitators/mediator
 - ▣ Assess obstacles to agreement and design a process to cement lasting decisions
 - ▣ Design effective ways of handling an angry public
 - ▣ Provide training and coaching in negotiation, facilitation, managing community engagement

CPRC

□ Conflict Prevention and Resolution Contract

EP-W09-011

- ▣ Available to HQ offices and Regions
- ▣ Offers access to a full range of facilitation, mediation and training services
- ▣ Provides contractors nationwide
- ▣ FAST and Easy to access
- ▣ See EPA intranet: intranet.epa.gov/adr

Other Resources

- TASC- Technical Assistance Service Contract
 - ▣ OSWER
 - ▣ CAG facilitation, Technical assistance related work
- Community Relations Service (CRS) at DOJ
 - ▣ Race, ethnicity or sexual orientation related tensions
- Sharon Ridings, internal facilitators
- Community Mediation Centers

