

EFFECTIVENESS OF DISPUTE RESOLUTION MECHANISMS
IN NATURAL RESOURCE MANAGEMENT IN ONTARIO

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ABSTRACT

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Key Words: conflict prevention/resolution, consensus-based decision-making, natural-resource management, public consultation/participation, stakeholder.

For a variety of reasons, the number and complexity of natural resource management conflicts in Ontario is increasing rapidly. To evaluate the premise that existing natural resource management planning processes are ineffective in preventing and/or resolving natural resource use and management disputes, fifteen cases of natural resource conflict prevention/resolution processes in Ontario were studied. The public consultation/participation guidelines outlined in the Ministry of Natural Resources' Timber Management Planning Manual for Crown Lands in Ontario (OMNR 1986a) were used as one of the cases and as a benchmark for the comparison of other cases. Based on the analyses, characteristics, pros, cons and effectiveness of each prevention/resolution process studied were described. Conclusions support the premise and suggest that effective conflict prevention/resolution processes must have the ability to be modified to accommodate unique conflict characteristics such as type and source of conflict. Processes which allow for varying levels of public participation and consultation tend to be most adaptable to necessary modifications.

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P.J.J.
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CHAPTER 1: INTRODUCTION

PROBLEM STATEMENT

Conflict over the use and management of natural resources in Ontario is not new. However, the number and complexity of natural resource management conflicts in the province is increasing rapidly. Many of these conflicts are long-standing, deeply-rooted and unnecessarily divisive within the resource management and user communities. As Ross and Saunders (1992) have observed:

Conflict has always been an underlying theme in the management of natural resources, whether between specific uses of the resource (for example, forestry versus fisheries) or, as has been more recently the case, between philosophies of resource management. But while such conflicts are not new, recent disputes have arguably taken on a significantly different character than past ones.

The traditional means of preventing (through natural resource planning processes) and resolving (through administrative decisions or the application of the Ontario Environmental Assessment Act) have been ineffective, inefficient and costly processes. Traditional prevention and resolution processes are reactive as opposed to proactive, and focused on winner/loser outcomes which do little if anything in achieving long-term, creative and implementable solutions. Ross and Saunders (1992) stated that:

As the range of interests has expanded, the mechanisms that once served to address these conflicts have increasingly proven incapable of dealing with a new agenda and new actors. This is especially true with respect to legal mechanisms. Most obviously, the tools created by common law for resolving resource-use conflicts are in many respects inadequate for coming to grips with new and different property interests. If we are to manage such conflicts successfully in the future, new mechanisms for dispute resolution must be created or old mechanisms must be given new life.

The causes of natural resource conflicts are numerous and often rooted in society's changes in perceptions and values over the past decade. Many conflicts are caused or perpetuated by decision-making and management methods which do not consider or accommodate society's desires and demands. Let us consider forest resource conflicts in particular. Eighty-four per cent of the productive forest land in Ontario is owned and managed by the provincial government (Forestry Canada 1990). In theory at least, this implies that every voting citizen of the province has a say in how Crown Lands should be managed, with each opinion carrying the same weight. As the number and variety of forest users increases, accommodating each opinion will become increasingly difficult. Thomas (1992) summarized the situation in this way:

The new players in the forest planning game have deep and strongly expressed concerns about how their forests have been managed in the past and now they demand that management be changed in the future.

In summary, public ownership of forests demands responsible and democratic management. This itself may engender conflict.

An additional reason for the increased occurrence of conflict relates to the quantity of forest land in Ontario. The amount of publicly-owned forest land available for a variety of often competing uses is fixed (if not shrinking). As urban centres grow, the amount of existing or potential forest land shrinks. As the population increases, so does the number and type of forest users. The most obvious change in the nature of resource-use conflicts in recent years is the growth in the number of competing users (Ross and Saunders 1992). In the past it was

possible in most parts of the province for competing users of the forest who were getting too close to each other to get a new allocation of forest to solve the problem. Presently, however, little of the province's accessible forests remain unallocated to one use or another. In most parts of the province, moving to new allocations will no longer be an option for resolving conflict between competing forest users. Instead, forest users must discover new mechanisms to resolve conflicts.

As a whole, citizens of Ontario have become better educated and more affluent. These trends have been accompanied by an increased environmental awareness which is much deeper and broader than in the past. With respect to the use and management of forest land, society is no longer satisfied to pursue solely economic benefits. People want forests to be managed for a wide range of social, ecological, economic, and spiritual values.

More generally, it is trite to observe that the public at large has taken a significantly greater interest in how resources are used; concern over threatened species and habitat, for example, is no longer limited to a handful of environmentalists, but is shared by a large segment of the population (Ross and Saunders 1992).

Traditionally, professional foresters employed by provincial government ministries or forest-products companies have held most of the decision-making authority in forest management. Foresters, by virtue of training and the status of Registered Professional Forester, were given authority by a largely urban population to make decisions about forest hinterlands. However, in recent years the intentions and decision-making authority of foresters have been challenged by an environmentally conscious populace.

In a more recent and local context, the Institute for Social Research (1990) at York University conducted a telephone survey entitled the Toronto Area Survey. The survey results, released in September of 1990, showed that 44% of respondents felt the government and industry, employers of the majority of the province's professional foresters, were no longer credible managers of the province's forest resources and the management responsibility should be shifted to environmental groups.

Finally, a vast number of economic, social, environmental, Aboriginal and professional groups have emerged with differing views on how and why natural resources, including forests, should be managed. This has been clearly illustrated through the media's coverage of natural resource and environmental conflicts such as Temagami, Clayoquot Sound, The Old Man River Dam and the Great Whale project. Regardless whether one agrees with perspectives presented by the media, it is clear that no single profession, group or government ministry can convincingly demonstrate to the public that it should have decision-making authority over natural resource and environmental issues. Without this authority clearly defined, there is a need to develop processes which enable interested stakeholders to inform, participate in, design and share in forest decision-making. This research is dedicated to discovering and describing such processes.

The sources of conflict outlined above provide some insight as to why natural resource and environmental conflicts are occurring. In the context of this research, conflict is defined as a disagreement between two or more groups or individuals with respect to the planning

process, management objectives, management techniques or uses of publicly owned forest resources in Ontario. Conflict resolution mechanisms are defined as procedures which resolve conflicts through various structured processes of stakeholder input, discussion or negotiation among stakeholders and the development of implementable solutions by consensus and shared decision-making.

RESEARCH PREMISE

The premise of this research is that existing natural resource management planning processes have been and are ineffective in preventing and/or resolving natural resource use and management disputes in Ontario. This premise is based on the increased number, complexity and variety of natural resource conflicts throughout the province. I believe that an in-depth description and analysis of a range of conflicts and the unique processes used to address them will reveal a set of approaches that are better suited to conflict prevention and resolution than the standard planning processes like the timber management planning process in Ontario (OMNR 1986a). Thus, by using descriptive and evaluative analyses of a variety of conflict prevention/resolution mechanisms, this study tries to discover more-effective methods for preventing and/or resolving natural resource management conflicts. The study is based on a compilation of case studies of past or present conflicts in which methods for preventing and/or resolving conflicts beyond the minimum public consultation and participation requirements were applied.

OBJECTIVE

The objective of this study is to provide a descriptive, comparative analysis of options for dealing with natural resource conflicts. The research is exploratory and not intended to create a "generic" approach to preventing and/or resolving environment conflicts. A generic approach is dangerous because each conflict is unique and needs to be approached accordingly.

JUSTIFICATION

The following reasons for applying alternative dispute resolution mechanisms apply in Canada as well as in the United States:

As America becomes more culturally, ethnically, socially and economically diverse, public conflicts are becoming more complex.

- (a) More parties want to participate.
- (b) More issues are interconnected.
- (c) The role of public and private institutions is less distinct.
- (d) Unilateral (top down) decision-making is becoming less effective.
- (e) The consequences of unresolved conflict are becoming less acceptable.

(Conflict Clinic, 1991).

In Ontario, the application of alternative dispute resolution mechanisms to natural-resource conflicts is in its infancy, with little, if any, documentation and communication of processes,

successes and failures. This research will introduce forest users and stakeholders to new and effective options for resolving natural-resource conflicts.

The study is based on four assumptions:

- (1) A wide variety of conflict prevention and resolution mechanisms have proven effective and are available to resource managers and decision-makers. A variety of mechanisms exist because a variety of conflicts occur, differing in such aspects as number and type of stakeholders, complexity and number of issues in conflict and different levels of jurisdiction e.g. international, national, provincial, regional, and local.
- (2) The mechanisms available for resolving environmental conflicts are substantially different in their effectiveness, efficiency and applicability in resolving conflicts.
- (3) Not all conflict prevention and resolution mechanisms are appropriate for all types of conflicts. At the same time, not all conflicts are suitable for resolution using alternative resolution mechanisms.
- (4) It is possible to array a variety of characteristics of resolution mechanisms against a variety of characteristics of conflicts from a collection of case experiences to analyze interactions and provide a summary of promising avenues of conflict resolution and prevention.

Based on the above premise and assumptions, I believe that a descriptive, comparative approach of inquiry into dispute prevention and resolution mechanisms will help broaden the knowledge and solidify the understanding of natural resource conflicts in Ontario. The analysis will demonstrate the strengths, weaknesses and applicability of several conflict prevention/resolution approaches. In addition, the research and results will help rationalize the choices available to natural resource managers, decision-makers, and users when faced with conflict situations. This research is the first of its kind in the province and an essential first step in the pursuit of much-needed effective and responsible public participation in

natural-resource management-planning processes.

PRODUCTS AND BENEFITS OF THIS STUDY

The study has generated two reports (a) this thesis, which embodies a description and comparative analysis of a wide variety of conflicts and conflict prevention/resolution mechanisms that have been, are, and might be, used in natural-resource management in Ontario; and (b) a citizen's guide entitled "Beyond Dispute: Collaborative Approaches to Resolving Natural Resource and Environmental Disputes" (Appendix V). Many natural resource stakeholders in Ontario assisted in this study by contributing information, reviewing draft reports, and participating in seminars. This involvement, in addition to wide availability of "Beyond Dispute", should help stakeholders reach favourable solutions to forest conflicts and crises in more amicable and efficient ways, thus contributing to the achievement of sustainable development of Ontario's society, natural resources and environment.

The next chapter contains background information on: the history of environmental conflict, government initiatives to catch up with the demands of society, and alternative dispute resolution as related to natural resource and environmental conflicts. Chapter 3 outlines the methods and approaches used for the collection and analysis of research data. Summaries of each case appear in Chapter 4, with more-detailed information in Appendix IV. A data summary and the comparative analyses are found in Chapter 5. The conclusions are

discussed in Chapter 6.

CHAPTER 2: BACKGROUND

As shown in Chapter 1, causes of natural resource conflicts are numerous and often rooted in changes in society as a whole over the past decade. Because natural resource planning and decision-making processes have not kept up with or accommodated society's demand for expanded and more-effective public consultation/participation in natural resource decision-making, the number and complexity of natural resource conflicts has increased. As will be shown in Chapter 5, levels and quality of public consultation/participation during natural-resource management planning play a significant role in the prevention and/or resolution of natural-resource conflicts. In order to understand why existing natural resource management planning mechanisms have been and are ineffective in preventing and/or resolving natural resource management conflicts, it is useful to trace evidence and sources of past natural resource conflicts. It will then be shown that the emergence and refinement of public consultation/participation processes used for natural resource planning in Canada and on Crown lands in Ontario have been recent, very rapid, and an attempt to catch up with changes in society. Finally, a brief overview of alternative dispute resolution mechanisms for natural resource conflicts will be presented.

EVIDENCE AND SOURCES OF PAST NATURAL RESOURCE CONFLICTS

Discussion around natural resource conflicts in Ontario has been documented as early as 1963 and focuses primarily on the use of forest lands. Rousseau (1963) noted that "other

industrial and non-industrial agencies enter into play that cut deep inroads into the once undisputed realm of the forester". At that time, the identification and acknowledgment of non-timber uses of forests was the primary topic. As Ward (1963) pointed out:

Thus multiple use of forest land may result in conflict. I use the word "may" advisedly since multiple use does not necessarily involve conflict. Many uses are compatible one with the other, but where conflict is indicated we must learn to recognize it before it happens, and plan for integrated use in accordance with the best land use principles.

Ward (1963) identified five major causes of forest-related conflict: agriculture, timber, mining, fish and wildlife, and recreation. Thirty years later, these are still the primary sources of conflict, with the exception of agriculture. Interestingly, Ward (1963) identified issues of forest access as being very significant causes of conflict.

The question of the use of access roads by other than the timber operator is a source of considerable conflict. The fisherman, the hunter and the forest traveller see these logging roads as avenues of access to new territory and are greatly disturbed to find that in some cases the operator has secured a land use permit for the road and has closed it to travel, thus preventing the use of the area tapped by the road for other purposes than logging.

As will be seen in the Case descriptions in Chapter 4, forest access still remains one of the most heated sources of natural resource conflict.

Aside from adopting principles of multiple use, there appeared little advice for decision-makers and managers as to approaches for preventing and/or resolving natural resource conflicts in the early 1960's. The task of the day seemed to be the acknowledgement of the rights of other forest users (Ward 1963):

The conflict, however, is not the serious matter, since once it is recognized one can set about to resolve it, but the inability or refusal to recognize the conflict or right of another user is where the trouble arises.

Where serious conflict occurs, it is probable that there will have to be a compromise but in many cases the conflict is not real but exists only in the minds of certain people who are loath to recognize the other users.

The difficulty for forest managers to come to terms with, accept and accommodate non-traditional forest users seems obvious from the comments of Rousseau (1963):

The new invasion of the "sacred woods" of which we have long regarded ourselves as the natural guardians, must be met with intelligence and calls for positive action instead of negative measures and restrictive attitudes on our part.

As the number and variety of forest users increase, the advice from Rousseau seems as warranted today as it did thirty years ago. However, until recently, the call for intelligence and positive action has not been followed.

THE RISE OF PUBLIC CONSULTATION AND PARTICIPATION IN NATURAL RESOURCE MANAGEMENT IN ONTARIO

Throughout the 1960's and 1970's formal mechanisms for public consultation and/or participation in natural resource planning and decision-making were non-existent. During this period, timber management planning was the most formalized of natural resource planning processes. However, even as late as the 1980 Forest Management Manual (OMNR 1980), which was used for Forest Management Agreements (FMAs), there was no mention of public participation or consultation with respect to the development of a forest management plan. This was likely due to the fact that forest management plans of the day were being written to fulfil the objectives of FMAs. The objectives of an FMA were:

"to provide for a continuous supply of forest products from the lands designated in the agreement for the wood processing plant or plants of a company and to ensure that the forests on such lands are harvested and regenerated to produce successive crops of timber on a sustained yield basis (OMNR 1980).

These objectives left little, if any, room for consideration of non-commercial uses of the forest.

The 1980's proved to be an active decade for the incorporation of public consultation and participation processes into natural resource management planning on Crown land. Although the processes were fairly regimented, they could be interpreted as being initial attempts at formal conflict prevention and/or resolution mechanisms. With the passage of the Environmental Assessment Act in 1975, the OMNR was required to modify its system of timber management planning for Crown land. The modification needed to "allow opportunity for public consultation and for consideration of the environmental implications of management activities" (OMNR 1986a). In 1986 the Timber Management Planning Manual for Crown Lands in Ontario (OMNR 1986a) was published. This document, which is the current timber management planning manual, outlines specific requirements for public consultation during the production of a timber management plan. These requirements can be found in Appendix IV. This document is the first timber management planning manual which both allows for public participation and acknowledges alternative uses of the forest. As outlined in the TMP Manual (OMNR 1986a), the objective of the forest management program on Crown land in Ontario is "to provide for an optimum continuous contribution to the economy by forest-based industries consistent with sound environmental practices and to provide for other uses of the forest".

In an attempt to co-ordinate natural resource planning on Crown lands, the OMNR produced "A Framework for Resource Management Planning In OMNR" in 1986 (OMNR 1986b).

The goal of the document was to provide "detailed direction about how objectives and targets within District Guidelines are to be achieved". Like the TMP Manual (OMNR 1986a), the Framework (1986b) emphasized that public consultation is essential to resource management planning.

Clearly, the 1990's have been, and will continue to be, a decade of great change with respect to the way natural resources are managed and natural-resource decisions made. The two most influencing factors for these changes were: the publishing of "Our Common Future" (World Commission on Environment and Development 1987) which is commonly known as the Brundtland Commission report, and the election of Ontario's New Democratic Party into power in 1990 which openly adopted the concept of sustainable development as described in the Brundtland report. In 1991, the OMNR published its new policy direction for the 1990's under the title "Direction '90s" (OMNR 1991a). The new policy "presents a major shift in policy direction that will guide our resource management activities in the 1990's. Sustainable development is the cornerstone of OMNR's new direction" (OMNR 1991a). The Minister of Natural Resources at the time, the Hon. C.J. (Bud) Wildman, declared that the 1990's were the "Turnaround Decade" and that "I want to open things up as much as possible, consulting the people who will be affected by our decisions, building a broad social consensus" (OMNR 1991a). With respect to public consultation/participation in natural resource decision-making in the 1990's, "Direction '90s" stated that:

Partnership arrangements in natural resource decision-making and management must, and will, be significantly increased so that the public shares more fully and directly in the benefits and responsibilities of resource stewardship (OMNR 1991a).

With the onset of the OMNR's new policy direction, a number of new initiatives and programs were and are being developed and implemented. A theme which is common to all new programs is the need for increased and better methods of public consultation/participation.

In 1991 the OMNR published "Public Involvement Guidelines" (OMNR 1991b). This comprehensive document is a "staff manual for designing and conducting public involvement programs in land use and resource management planning" (OMNR 1991b). The document is the first of many OMNR initiatives which recognize the need for, and describe, a range of public consultation/participation topics which can greatly enhance traditional planning processes.

At the provincial level, an initiative for improving planning for natural resources has been undertaken. The OMNR is "looking to improve planning for natural resources to make it more efficient, effective and fair" (OMNR 1992a). The four themes for the review are: decision-making, fairness, integration and ecosystem integrity. Under the "fairness" theme, consideration is being given to incorporating conflict resolution mechanisms into planning processes - "it is important to focus our attention on the basic elements of conflict-resolution and adapt them to fit the planning process for natural resources" (OMNR 1992a).

Perhaps the cornerstone of the OMNR's new policy direction regarding forest management in the 1990's is the Sustainable Forestry Initiative. This major initiative has five key components: silviculture strategies for sustainable forestry, a policy framework for Ontario's forests, old-growth ecosystems, community forestry and a private woodlands strategy. Each component is an aspect of sustainable forest management that "ensures the long-term health of forest ecosystems and which contributes to global environmental benefits, while providing an array of social, cultural and economic opportunities now and in the future" (OMNR 1992b). Aspects of public consultation/participation are addressed in each component.

The outcome of the Class Environmental Assessment for Timber Management on Crown Lands in Ontario could have dramatic impacts on public consultation/participation during the development of a timber management plan. Under the OMNR's proposed Terms and Conditions, "timber management plans shall be prepared in an open consultative fashion by a planning team assisted by advisors and a Local Citizens Committee, and with opportunities for ongoing participation by interested and affected persons and organizations, and by the general public" (OMNR 1992c).

One method of evaluating public concern over forest management activities on FMA forests is already in place. The terms of reference for both first and second five-year reviews of an FMA outline three opportunities for the evaluation of public concern. The terms of reference (OMNR 1992d) require that the reviewing team:

Determine by field inspection the degree to which other forest users and other forest values have been accommodated in management planning and operations.

Meet with other users of the forest in and adjacent to the agreement area, i.e. local cottagers, hunting and fishing groups, native groups, and to identify with them problem areas or concerns on the part of the public with respect to the agreement, its administration, and the working relationship with the company and ministry staff.

To examine and report on company forest management activities conducted beyond the obligations under the agreement by evaluating areas where the company has taken a positive approach beyond the planning process to address public concerns.

Although FMA reviews are an evaluation of past practices, hopefully they will promote successful public consultation/participation processes for future management planning.

At the national level, The Canadian Council of Forest Ministers (CCFM) released "Sustainable Forests: A Canadian Commitment" in March 1992 which is intended as a guide for the entire forest community in Canada (CCFM 1992). Strategic Direction Three of the document is entitled "Public Participation: Expanding the Dialogue". The principles underlying this Direction are (CCFM 1992):

The public is entitled to participate in forest policy and planning processes, recognizing that it carries with it obligations and responsibilities.

Effective public participation requires an open, fair and well-defined process, with generally accepted procedures and deadlines for decisions.

To participate effectively, the public must be aware and informed, with access to comprehensive and easy-to-understand information on forest resources.

In order for these principles to be fulfilled, an eleven-point framework for action was developed (CCFM 1992).

In addition to forest management initiatives, programs in Ontario to enhance the management of fisheries and wildlife also emerged in the early 1990's. The Strategic Plan for Ontario

Fisheries - SPOF II (OMNR 1992e) is a blueprint for a province-wide course of action for Ontario's fisheries for the 1990's and beyond. This document states that "the opportunities for meaningful public involvement at all stages of management are currently inadequate" and that "conflicts arise among stakeholders who do not have a common set of values and consequently do not agree on how to share the resource" (OMNR 1992e). To address these problems, SPOF II recommends to "inform and involve the public in decision making and program delivery to foster stewardship" and specifically, "improve consultation and involvement mechanisms for co-operative decision making and program delivery" (OMNR 1992e).

With respect to wildlife management, "Looking Ahead: A Wild Life Strategy for Ontario" suggests "encouraging collaboration among all those whose activities affect eco-systems" (Ontario Wildlife Working Group 1991). In addition, Strategy 39 recommends to "encourage Ontarians of all cultures to participate in wild life protection and management programs" (Ontario Wildlife Working Group 1991).

ALTERNATIVE DISPUTE RESOLUTION MECHANISMS FOR NATURAL RESOURCE CONFLICTS

In recent decades, the field of conflict resolution or alternative dispute resolution (ADR) has emerged under a variety of names and acronyms. The theme central to these processes is decision-making through consensus. Darling (1992) stated that "consensus-based negotiation or shared decision making is a process in which the affected parties design their own solution

to a joint problem". This is done through a variety of shared decision-making processes such as negotiation, facilitation, mediation, consultation and bargaining.

The contemporary principles and techniques of negotiation and mediation were developed during the socially turbulent 1960's (Folberg and Taylor 1984). Dispute resolution techniques such as mediation, negotiation, arbitration and bargaining initially focused on community and neighbourhood conflicts. In recent years however, these techniques have expanded into the areas of domestic and environmental disputes (Jacobs and RuBino 1988).

In the last decade, environmental negotiation and mediation have been growing rapidly in the United States and, to a somewhat lesser degree, in Canada. In the United States, environmental mediation and negotiation are being applied to a wide range of environmental conflicts, e.g., disputes concerning zoning matters, large-scale development, highway locations, energy options, mining, oil and gas exploration, water quality, water supply and diversion preservation of wetlands, conservation and wilderness areas, and timber harvesting, to name only a few (Jacobs and RuBino 1988). In Canada the use of alternative dispute resolution mechanisms for resolving environmental conflicts "is a relatively novel but emerging idea" (Sadler 1986). Recently, British Columbia and Alberta have used environmental mediation in a variety of cases such as: forest harvesting; mining, oil and gas exploration; and conservation and preservation (B.C. Roundtable on the Environment and the Economy 1991, Canadian Petroleum Association 1989). In Ontario, the use of formal environmental mediation has been limited to land use planning and waste facility sitings

(Armour 1988). A significant indicator of the growing acceptance of environmental mediation has been the incorporation of mediation into the Canadian Environmental Assessment Act, Bill C-13, which was given assent in June 1992. In the Act, mediation is defined and sections 29 through 32 of the Act provide for mediation and panel reviews (Canadian Environmental Assessment Act 1992). Sadler (1990) paraphrased the provisions as "a project that is likely to cause significant environmental effects or raise public concerns may be referred either to panel review or mediation." In Ontario, a report prepared for the Ontario Environmental Assessment Board stated (Bozzo *et al.* 1993):

There is a role for Alternative Dispute Resolution (ADR) in the Environmental Assessment Board (EAB). Environmental Assessment Board members should expand their use of ADR. However, there are certain constraints that have been identified and should be addressed.

In summary, the use of mediation in Canada is increasing but it is not nearly as advanced or well documented as it is in the United States.

The concepts underlying the use of ADR and the techniques and basic methods of negotiation and mediation are well documented. Likely, the most widely recognized negotiation text is "Getting To Yes" (Fisher and Ury 1981). This book established the concept of "win-win" bargaining which has become the cornerstone of mediation and negotiation. de Bono (1985) is one of a few sources which provide descriptions of how and why people disagree and emphasizes the need for creativity in resolving all types of conflicts. Additional ADR references include: Susskind *et al.* (1983), Bacow and Wheeler (1984), Folberg and Taylor (1984), McCarthy and Shorett (1984), Bingham (1986), Amy (1987), Susskind and Cruikshank (1987), Parenteau (1988), Wondolleck (1988), Cormick (1989), Dorney (1989),

B.C. Roundtable on the Environment and the Economy (1991), Conflict Clinic (1991), and Cormick (1991), to name only a few sources. One of the most recent and comprehensive sources of information pertaining to ADR and environmental mediation is "Responding to Changing Times: Environmental Mediation in Canada" (Shaftoe 1993).

In addition to few mediators being educated in, or having experience with, environmental disputes in Canada, there has been little research or synthesis of experience about ADR mechanisms for resolving environmental conflicts, especially in Ontario. As a result, there has been little work done in the field of analysis of dispute resolution processes. Jacobs and RuBino (1988) summarized that status of analysis in this way:

Assessment is more often limited to considerations of whether the dispute is "ripe" for resolution, whether all parties that have a stake in the outcome are represented, whether all parties agree on the scope of the issue, and a determination of the willingness of the parties to negotiate. These are important questions and not to be dismissed, however, we feel that the typical assessment process in environmental negotiation has little theoretical foundation.

One exception is Wood (1989) who identified nine obstacles to the use of principled negotiation for resolving wilderness land-use conflicts in British Columbia:

- 1) Lack of executive support
- 2) Lack of understanding
- 3) Fear of losing control
- 4) Perception that public groups' opinions are not legitimate
- 5) Inability to recognize issues as they emerge
- 6) Forest Service encourages confrontation
- 7) Perception that some public interest groups have intractable positions
- 8) The problem of mutually exclusive interests
- 9) Lack of expertise, support, staff and funding

Hopefully, as the collection of successful and failed attempts of the application of ADR for resolving natural resource conflicts in Canada increases, there will be a corresponding rise in

analysis.

CHAPTER 3: METHODS AND APPROACH

GEOGRAPHIC AREA OF STUDY

The objective of this research is to identify, document and analyze past and existing conflicts over natural resource and environment management in northern Ontario. The research area was the part of the province including, and north of, Sudbury. This area was chosen for four reasons: 1) it represents the majority of the province's area where natural resources are managed, 2) the natural resource and environment conflicts of this area had never been comprehensively studied, 3) the conflicts in this area are numerous and often deeply rooted, and 4) a limited geographic area was necessary for completion of the study within a reasonable timeframe. It should be noted that one case (Case 9: Wild Rice) occurred in southeastern Ontario, outside the geographic study area. This case was included because of its unique characteristics and valuable messages. In addition, the situation presented in Case 9 could easily occur in northern Ontario.

DATA COLLECTION

In the spring of 1991, we (Dr. Peter Duinker and myself) began compiling a list of past and existing conflicts within the study area. We learned of conflict cases mostly by word of mouth. The OMNR was our primary source because of its involvement in many natural resource conflicts. For each conflict, a contact person was identified. This person was

usually someone who had initiated, chaired, or participated in the resolution process.

Through telephone conversations and personal meetings, information was collected case by case. Appendix II shows the questionnaire used for data collection. Appendix III contains a list of the case numbers and titles and Appendix IV summarizes the information collected for each case. The majority of data collection occurred during the summers of 1991 and 1992, but as new conflicts came to our attention they were added to the data base throughout 1991 and 1992. In addition, information on cases was continuously updated when necessary.

During the data collection period, I travelled throughout the study area and met with the contact people and others involved in conflicts. OMNR staff was made aware of the research through a letter from Mr. Ray Riley, Assistant Deputy Minister Operations to all OMNR Regional Directors (Appendix I). In addition to OMNR staff, I met frequently with representatives of the forest products industry. Through the OMNR and industry meetings, I was put in contact with numerous local stakeholders involved in conflicts. For cases which had occurred in the past, data were collected from written notes, minutes, articles, etc. as well as from speaking with stakeholders who had been involved.

An admitted weakness in this research lies in the number of sources contacted for information on each case. For some cases several individuals were consulted, while for others only one source was used. Despite this shortfall, I am confident the data presented are representative of both the source(s) of conflict and the process(es) used for prevention and/or resolution. Time and financial constraints were key factors prohibiting a more balanced data collection.

No fixed number of conflicts was established as the study got underway. We collected information on conflicts as we became aware of them and selected the most informative cases for analysis. Although this study analyzes only 15 cases, data on a number of other cases were collected. These cases were not incorporated into the analysis either because they were not far enough along in the prevention/resolution process, or because they were redundant.

DATA ANALYSIS

Because the mechanisms used to prevent and resolve natural resource and environment conflicts deal primarily with the interactions of stakeholders, it would be impossible to analyze the effectiveness of resolution mechanisms through quantitative analysis. Some researchers have analyzed conflict cases using game theory techniques for the minimization or maximization of resource outputs (e.g. Teclé *et al.* 1989). This type of research focuses primarily on the manipulation of resource inputs and outputs as a means of settling disputes. While perhaps useful in its own right, this approach does not take into account the administrative and human dimensions of dispute resolution which are crucial to successful resolution.

Due to the lack of any well developed or widely accepted methodology for the analysis of cases, we (Dr. Peter Duinker and myself) developed five methods for the case analysis: a process spectrum, sources of conflict, approach characteristics, a conflict versus process framework and characteristics of conflict resolution processes. Each method takes into

account factors which are significant for the successful prevention and/or resolution of a natural resource conflict. The results of the analysis of the 15 cases enabled a comparative assessment to be made of the effectiveness of a variety of conflict prevention and/or resolution processes.

Process Spectrum

The cases and corresponding processes represent a wide spectrum of citizen involvement in natural resources decision-making. From the set of cases, five distinct processes of stakeholder input and decision-making for the prevention and/or resolution of conflicts were identified: public consultation, unassisted committee structures, unassisted negotiations, partial mediation/facilitation, and full mediation/facilitation. The processes were arranged in order of least stakeholder influence on the decision-making process (public consultation) to the greatest stakeholder influence (full mediation/facilitation). The arrangement of cases did not imply that one process was better than any other; it only represented levels of public involvement.

Sources of Conflict

The idea to analyze the cases by sources of conflict came from Jacobs and RuBino (1988) who used existing typologies of natural resources and conflicts to ascertain if they can be used as tools to sort out appropriate from inappropriate uses of environmental mediation.

For our analysis, sources or types of conflict from a variety of authors were compiled and compared. The list below outlines the sources and types of conflict, as described by the respective authors, which were compared.

Conflict Clinic Inc. (1991). Types by source:

- 1) **Data:** This is a very common kind of conflict based on different sources, analysis or interpretation of information. Fortunately, there are many techniques to resolve these issues. Most technical knowledge is based on the ability to objectively measure or quantify. Data disputes can often be recognized in questions such as "how many?, what is best?"
- 2) **Relationships:** Human interaction is almost always a part of the story when conflict has gone on a long time or escalated dramatically. Relationship issues can be recognized when one party questions the "trustworthiness", "integrity", mental acuity" or "reliability" of another party. Family and workplace disputes often include relationship issues.
- 3) **Structure:** Parties may conflict because of the structure or system within which they operate. If they cannot change something in the situation, the issue will recur over and over again. These disputes are common in the workplace where rules or jobs push individuals or groups into conflict. These issues may also be recognized when physical limits prevent everybody from getting what they want.
- 4) **Values:** These conflicts can be extremely intense if the belief under dispute is closely linked with a disputant's identity. Abortion vs. Choice is an example of a deep-rooted value-based dispute. These disputes are often characterized by efforts to define what is "right" in some moral sense. Values disputes can also be relatively shallow differences of preference, or can mask other types of conflict.
- 5) **Interests:** Often, behind conflicts which appear to be one of the above, conflicting interests are at work. I want or need something different. Interest conflicts often can be resolved because there may be ways to satisfy interests, but they are also dangerous because they can escalate quickly. Parties will go to war if it is in their interest to do so.

Dorcey and Riek (1987). Elements of conflicts (that may be difficult to separate completely):

- 1) Cognitive conflicts are rooted in different understandings of the facts.
- 2) Value conflicts stem from different preferences about the outcome.
- 3) Interest conflicts occur when there are disagreements about the distribution of costs and benefits.
- 4) Behaviourial conflicts are rooted in the personalities, experiences, and circumstances of the interested parties.

Susskind and Cruikshank (1987). Distributional conflicts versus constitutional or legal rights:

Distributional disputes differ markedly from a second category of disputes that centre primarily on the definition of constitutional or legal rights. Distributional disputes focus on the allocation of funds, the setting of standards, or the siting of facilities (including how we use our land and water). Constitutional disputes.. hinge primarily on interpretations by the courts of constitutionally guaranteed rights.

Bourne (1991). Sources of Conflict: Social versus Individual:

Social:

- 1) Social Structures: regulate the basic allocation of economic and political resources in society.
- 2) Decision-making Procedures: establish on-going rules for policy- making and act as gates to decision-making power.
 - control information flow
 - establish rules of evidence
 - alter access of individuals to decision-making process
- 3) Uncertainty: creates differences in expectations of future events and outcomes; risk.
- 4) Substantive Issues: define distribution of benefits associated with individual decisions.
 - concern in process of decision-making
 - concerns with impacts of particular decisions

Individual:

- 1) **Values and Principles**
 - morality, attitudes, ideology, etc.
- 2) **Personality and Relationships**
 - emotional volatility, sensitivity to others, communication, trust, rationality, etc.
- 3) **Perceptions**
 - perspective, beliefs, uncertainty, information, expectations, analysis, etc.
- 4) **Interests**
 - common good, public interest, private gain, etc.

From the comparative analysis, five sets of sources of conflict were developed:

A = Data/Cognitive/Understanding/Fact/Knowledge/Perceptions

B = Behaviour/Relations/Personality

C = Distributive/Interests/Substantive

D = Structure/Rights/Decision-Making/Process

E = Values/Principles

The significance of the five sources of conflict for each case was then assessed using a scale of Low, Medium and High. The justification of Low, Medium and High for each case is given in Chapter 5.

Approach Characteristics

Based on case data and related literature, five key approach characteristics to conflict prevention/resolution processes were identified: initiation, implementation, objective, type and authority. These characteristics were selected because of the significance they have on the functioning of a dispute prevention/resolution process. In addition, these factors can be adjusted by process designers or stakeholders to make the process more effective. Having identified these characteristics, each case was then analyzed. A detailed description of the approach characteristics and how they affect prevention/resolution processes is given in Chapter 5.

Conflict Versus Process Framework

To determine if there were relationships between conflict characteristics and the design of conflict prevention/resolution processes, two continua were arranged into a framework. The x-axis of the framework represents conflict characteristics and the y-axis represents processes used to prevent or resolve conflicts. Based on the case data, each case was placed within the framework and the placement justified. An interpretation of the framework was then made, based on the location and characteristics of the cases.

Characteristics of Conflict Resolution Processes

Based on observations and inferences drawn from the four previous approaches to case analysis, the characteristics, pros and cons of the conflict prevention/resolution processes used in the cases were described. The characteristics were then interpreted to determine if there was a relationship between conflict prevention/resolution process characteristics and process flexibility. A continuum was adopted to show the relationship.

CHAPTER 4: THE CASES

In this chapter, the 15 cases of conflict prevention and resolution studied are presented. For each case, the problem, situation or conflict is described. Next, the process used for the prevention and/or resolution of the conflict is characterized. The problem and process for each case were developed from the case descriptions in Appendix IV.

The public consultation requirements of the Timber Management Planning process, as outlined in OMNR (1986a), was selected as the benchmark against which all other natural resource planning processes were evaluated. This selection was made for three reasons: (a) the TMP process is advanced with respect to specified technical and procedural requirements; (b) because the TMP process is implemented once every five years for each forest management unit, natural resource stakeholders are familiar with it; and (c) it attempts to address many more resource and environmental values than just commercial timber.

It is understood that natural resource management planning processes in Ontario have, and will continue, to evolve. In the context of this research, the existing TMP process (OMNR 1986a) is referred to as the "status quo" for natural resource management planning simply for the sake of comparison and clarity.

The cases represent various levels of "customization" of the natural resource management planning process. For this research, customization of a natural resource management

planning process means any supplementary procedures beyond the minimum planning process requirements as outlined in OMNR (1986a).

CASE 1: Public Consultation During Preparation of a Timber Management Plan

The opportunities for public consultation and input in timber management planning (OMNR 1986a) are used as a benchmark against which all other processes outlined in the following case examples are evaluated. In subsequent cases, deviations from the status quo for public consultation are described and evaluated. The fact that a process was highly or slightly modified to suit the conflict does not mean that one process is better than another. In the cases presented it is assumed that the modifications made, however small or large, were seen as necessary for the prevention and or resolution of the conflict.

The Process:

Under the existing TMP process, there are four formal opportunities for public input: invitation to participate, the information centre, review of the draft plan, and inspection of the final plan. After the second and third of these opportunities, the planning team reviews the public input and adjusts the plan as it sees fit.

CASE 2: Sapawe Crown Management Unit

In this case there are two problems which are in direct contrast of each other. The two sawmills in the area are entirely dependent on white pine. The preservation movement which had focused on the pines of Temagami turned attention westward and was drawing provincial attention to the white pine in the Sapawe Forest. There were claims that the old-growth pine in the Sapawe was being threatened by a liquidation harvest and that the white pine sawlog industry would be destroyed at the same time. Although there was some minor opposition from local residents to the proposed harvesting of the white pine, the biggest protest came from large provincial organizations outside the Sapawe area. A formal EA for the TMP amendment was requested but it was denied by the Ministry of the Environment. This was not a "cut or not cut" conflict because an immediate stop to all white pine harvesting would have meant a shutdown of the sawmill, a significant local employer. There was also great debate as to the quality of the white pine stands and whether they were worth preserving when there were two provincial parks in the area that protect extensive white pine communities in the area. To complicate the conflict even more, as the conflict was being played out, the province created a provincial Old Growth Policy Advisory Committee the mandate of which was to develop and implement a provincial old-growth strategy. The OMNR staff responsible for the Sapawe had to be careful that any actions taken not be seen to be thwarting the activities of the Committee allocating the white pine before the Committee's report had been made.

The Process:

To resolve the white pine allocation problem, the local OMNR staff basically followed the existing TMP amendment procedures. This was not necessarily a novel approach, but given the circumstances it may have been the best option. With the Old Growth Policy Advisory Committee working on a provincial old growth strategy, it would have been difficult for the local OMNR to justify the use a resolution mechanism which deviated greatly from the traditional amendment procedures. However, the local OMNR did implement some special techniques to enhance public participation. It was made very clear in the required public advertisement of the amendment that the major species in question was white pine. In addition, the advertisement was run in regional newspapers, not only the local newspaper. Members of the public were asked to contact the local OMNR office for additional information and to tour the forest. The OMNR staff also invited the Federation of Ontario Naturalists, the Old Growth Policy Advisory Committee and a regional old growth working group to come to the Unit, tour the controversial stands and provide advice. The amendment was accepted and until the Old Growth Policy Advisory Committee files its report, there would be no cutting in stands in which white pine is the dominant working group. In addition, the mill began to diversify its operation, enabling it to use species other than white pine.

CASE 3: Public Advisory Committee for the Mallette Timber Management Plan

For a TMP on an FMA forest, the OMNR and the FMA holder thought it would be a good idea to create a public advisory committee to enhance the public input during plan development. The committee was not intended to replace the regular consultation processes, but rather to incorporate more public input. The committee was designed primarily to prevent conflicts related to the TMP, but it also proved effective in resolving a potentially bitter conflict over a harvest location issue which arose during the planning process.

The Process:

The ad hoc committee was instigated by the local OMNR District Manager (DM) and it reported to the TMP Planning Team. The terms of reference and mandate were developed by the OMNR and the FMA holder. The Chair was a member of the planning team and meetings were held after planning team meetings. The OMNR and the FMA holder knew which stakeholders were needed to make the committee a success. The organizations and stakeholders were contacted and asked to send a representative. Selection of the stakeholders was to ensure that all key stakeholders were included but that the people selected not be influenced by personal involvement in issues. In addition, stakeholders were to be from the area and not out of District. Although many invitations were sent out, only six applications were received. The committee acted in an advisory capacity, providing recommendations to the planning team.

The planning team saw the committee as useful for gathering additional input into the TMP. The FMA holder was nervous in the beginning about using such a group. The committee was an opportunity for citizens to learn more about resource management. The committee was taken on a tour of the FMA holder's mill and taken on several air and road tours of the forest. At the end of the TMP process, the committee became a standing District Advisory Committee. Additional members were included and a new mandate and terms of reference were developed to enable the committee to address District issues.

CASE 4: Trout Lake Co-management Group

The problem was a need to preserve the remote tourism industry which existed on the lakes, while at the same time provide for the local fishermen who wanted to access the lakes for recreational fishing opportunities. Forest management activities in the area were getting close to the lakes but a 2-km restricted access zone had been put in place to reduce road access to the lakes. The restricted access zone did not upset the timber companies in the area but the local anglers were angry. In addition to the question of access, there was also a concern over the fish populations, especially pike and walleye. The local newspaper played up the situation and caused much anxiety in the community. The situation was not critical yet but all the ingredients were in place for a highly conflictful situation in the future.

The Process:

The OMNR created a co-management group and gave it a 12-month mandate to study the situation and provide the DM with a report outlining management recommendations which would resolve the issues and prevent future conflicts. The OMNR identified lake users and stakeholders and asked them each to send a representative. The OMNR prepared the mandate and terms of reference for the group and selected the Chair. The OMNR knew the group would not be able to agree on a Chair if left on its own, so the OMNR presented a name to the committee and it was accepted. The group tried to make decisions through a voting process but this failed and consensus-based negotiations were substituted. The OMNR sat on the committee as a member and provided resource information as required.

A 12-month mandate was not long enough for the group so it was extended. The first year was one of growing pains as group members learned about each other and about fishery management. The first step for the group was to get members to accept the resource data. The second step was to understand the concepts of sustainability. There was also a division of interests that needed to be accounted for. For example, several angler groups represented had different philosophies even though all were members of the Ontario Federation of Anglers and Hunters. Also there was a difference between hunting outfitters who wanted roads and fishing outfitters who did not want roads.

The OMNR saw the process as an excellent opportunity to educate the stakeholders on resource management, but felt it should have taken a stronger lead role to get things moving faster. After the group filed its report, the DM granted its request to remain in place to help in the implementation.

CASE 5: Lac Seul Forest Timber Management Stakeholders Committee

This committee was one of four pilot stakeholder committees in the province developed under the OMNR's proposed Terms and Conditions for the Class Environmental Assessment for Timber Management on Crown Lands in Ontario (OMNR 1992c). The committee acted in an advisory capacity, advising the OMNR and the TMP planning team during the development of the Lac Seul Forest TMP. Specific issues the committee was asked to look into were the use of herbicides and the size and location of clearcuts. The potential for conflict in this forest was rather low because much of the forest had not yet been harvested or accessed, making it possible to accommodate a variety of users.

The Process:

The purpose and terms of reference for the committee were developed by the OMNR and given to potential members prior to the committee's establishment. The OMNR identified stakeholders and asked them to provide a representative. Native groups in the area wanted to be kept informed of the progress of the committee but did not want to be members. The

committee developed organizational and procedural rules and elected its own Chair. The OMNR provided resource information and material. Meetings were held after TMP planning team meetings where the committee was brought up to date on the progress of the plan and asked for input. Minutes of meetings and recommendations of the committee were available for public review.

The terms of reference for the committee included mechanisms for appeals to the DM and Regional Director if the committee members were not satisfied with the actions taken on recommendations made. The committee started with 14 members, but after a few meetings a core of only five remained. Due to problems relating to harvest allocations the Plan was delayed. The group was to meet prior to the implementation of the TMP but because the Plan was delayed it was difficult to schedule meetings after April 1 because people had prior commitments, business activities, etc. The committee was to meet twice a year to monitor implementation and address amendments if necessary.

CASE 6: Terrace Bay Stakeholders Committee

This committee was also one of four pilot stakeholder committees developed under the OMNR's proposed Terms and Conditions for the Class EA (OMNR 1992c). The committee also acted in an advisory capacity, advising the OMNR and the TMP planning team during the development of a TMP. Two topics the committee was asked to review were the size of clear-cuts and forest road use and location. These topics were potential areas of future

conflict.

The Process:

The committee was instigated by the OMNR and was a standing committee for the development and duration of the 5-year TMP. The DM identified interested stakeholders and organizations and approached them for a representative for the committee. One of the conditions for membership was that the representative had to be involved with or from the management unit for which the TMP was being written. The committee's terms of reference and mandate were developed by the OMNR and the group selected its own Chair. The committee decisions were achieved by vote and the DM and Unit Forester attended meetings but did not vote. The committee was responsible for determining the frequency of meetings, agendas and minutes. The OMNR provided no compensation to committee members but covered the administrative costs. The OMNR was not bound by any formal obligation to accept recommendations from the committee, but knew it would need compelling reasons for rejecting the committee's advice.

CASE 7: Sudbury District Advisory Committee

When this committee was established, its purpose was to provide input into the development of a TMP. The committee remained in place to address problems associated with the implementation of the plan. The committee's function was to prevent conflicts.

The Process:

The process used to develop and manage the committee was similar to the advisory committees described above. Due to the success of the French River Advisory Committee, the OMNR decided to initiate a similar committee for the development of the TMP. The committee worked in an advisory capacity and the mandate and terms of reference were developed by the OMNR. The OMNR identified and approached organizations and stakeholders to send a representative to be a member of the committee. At the request of the committee members, the OMNR Unit Forester was the Chair and the OMNR provided the necessary resource information. The committee met as the plan was developed and there was no compensation to the members. Unique characteristics of the committee included:

- 1) several field trips;
- 2) each meeting began with two members making presentations to the committee about the group they represent;
- 3) outside groups were brought in to make presentations;
- 4) most members are from provincial organizations such as the OFAH and FON; and
- 5) there is no time limit as to how long a member can sit on the committee - the OMNR feels the longer the better to ensure continuity.

CASE 8: Lac Des Mille Lacs Lake Management Plan

When the Lake Management Plan was being prepared, no significant conflicts over lake management arose. However, both the OMNR and the users of the Lake realized that the potential for future conflicts was great. The number of users and the variety of demands being put on the lake were increasing rapidly and if these concerns were not addressed in the

Management Plan, a potentially explosive situation might be created.

The Process:

The planning process implemented here was far above the minimum requirements. The use of an advisory committee was novel for the time, although it is becoming more and more popular. The committee was a highly customized element of the planning process.

Committee members were selected through a nomination and weighted selection process.

This was effective because it allowed any interested citizen to be nominated either by themselves or by someone else. The weighted selection process allowed for a cross-section of the most concerned, knowledgeable, and experienced stakeholders to be selected.

The OMNR began the pre-planning process of collecting background information at a very early stage, giving the committee an abundance of data and information with which to work.

Thus, the committee was not under the pressure of a short timeframe.

Clear terms of reference and mandate directed the group to concentrate efforts on plan preparation. The OMNR committed itself to implement recommendations made by the committee if they were legal and maintained/enhanced the lake environment, giving the committee a strong sense of responsibility and usefulness. Although the committee did not design the process itself, members had a strong role in informing and participating in the process.

During the planning process, few controversial obstacles faced the planning team and committee. Thus, the planning exercise served to prevent conflict and there was little uncertainty of reaching agreement. For example, at the open house in which the draft lake management plan was presented, the advisory committee and the OMNR hosted the public. When concerned citizens came to the open house, they were much more at ease discussing issues with committee members who were fellow lake users than only with OMNR staff.

The smooth acceptance and implementation of the lake management plan is largely attributable to the design and function of the advisory committee. Despite the planning process taking longer and being more expensive than traditional planning methods, OMNR staff indicated confidence that these short-term costs are much lower than the long-term costs of future conflicts.

CASE 9: Wild Rice

The conflict in this case was over the rights to harvest wild rice on Mud Lake. The Aboriginal people and local residents of the area claimed that they had been managing and harvesting the rice in a traditional way for generations and that it was their right to continue doing so. The owners of the Lanark Wild Rice Company felt that they should be granted a licence and be able to harvest the rice commercially. The problem was complicated by conflicting reports on the health of the rice crop and the impact mechanical harvesting would have on the survival of the crop.

There were also problems with government responsibility and accountability in decision-making. The Premier stated that there was to be a 5-year moratorium on the issuing of wild rice harvesting licences to non-natives. However, the OMNR did not follow this statement and issued a licence to Lanark anyway. The lack of clarity and interpretation of the Premier's statement by the OMNR led the natives and local residents to resort to civil disobedience.

The Process:

The process used to attempt a resolution of the conflict was one of meetings and negotiations. This process seemed to be shallow - despite the recommendations of an OMNR hearing and a strong case presented by the natives and local citizens, a licence was issued. The process revealed a government making authoritative decisions without significant concern or consideration for opposing concerns. In addition, the OMNR's decision to issue the licence could be seen as a direct contradiction to the Premier's issuance of the moratorium. There were many alternative processes that could have been used to resolve this conflict, but for a variety of reasons (mostly political) none was attempted. As a result, the conflict came to an unnecessary confrontation which generated provincial attention.

CASE 10: Brightsand Forest

The problem was one of remote tourism values being threatened by timber management activities. A remote tourism operator was concerned that timber management activities and the construction of forest access roads were being proposed for areas too close to his remote tourism operations. The operator wanted to make sure that the "wilderness" values of the area be preserved. He asked that, if the operations had to take place near his operations, provisions be made to minimize the impact on his business.

This was a long and drawn-out conflict that lasted three years. During this time of bargaining, much frustration was felt by all participants. At one point the operator asked to be given a new remote lake elsewhere in the province in exchange for the lake he was operating on. He was refused this proposal, which deepened the conflict. This case exemplifies the problems of not having a provincial remote tourism policy. In addition, there was a high turnover of OMNR staff involved in the conflict which may have drawn out the process longer than desirable.

The Process:

The process used to resolve the conflict was a long period of bargaining. The OMNR, the company responsible for the FMA and the operator had numerous meetings and much correspondence until a resolution was finally reached. In addition, the tourism operator

maintained an aggressive letter-writing campaign to senior bureaucrats and politicians. In the latter stages of the process the operator hired a lawyer to act on his behalf. It was not until an independent forestry expert was brought in by the lawyer that progress was made.

CASE 11: Seine River FMA

This case started out as one of conflict prevention, but it developed into a need for conflict resolution. The OMNR and the forest-products company as FMA holder, had been working on a TMP for about two years. During this time the planning team had identified stakeholders who had, or potentially would have, a concern with the TMP. Company and OMNR members of the planning team would go out to meet with the concerned stakeholders and resolve the problems. The planning team tried to meet with one particular stakeholder for two years. For a variety of reasons, the stakeholder could never meet with the planning team so the team went ahead with planning. Two weeks before the Plan was to be submitted for approval, the stakeholder came forward and presented his concerns over the location and timing of timber harvest and road construction near his remote tourism operation.

The Process:

At such a late stage in the planning process, there was little more the planning team could do than meet with the stakeholder and try to address his concerns. Company representatives met with the stakeholder, found out the details of his concern and offered a proposal to solve

the situation. A few days later the stakeholder came back with a counter-proposal. From an operational perspective, the company could not accept the counter-proposal. The OMNR DM was asked to step in. He met with the stakeholder to see if there was any chance of compromise. The DM then met with the company representatives and presented his findings. At this point the stakeholder wrote a letter to senior government officials, politicians and interest groups outlining his disappointment with the way the situation was being handled. He felt that the OMNR was pro-timber. Two days after the letter was sent, the stakeholder and the FMA company reached an agreement on the TMP.

CASE 12: Wabigoon Forest

This case of conflict prevention deals with the development of a TMP. There were no major conflicts which involved groups of stakeholders. Rather, there were individual concerns over the proposed TMP. The concerns were site - and individual-specific, making the problems manageable in the planning stage but potentially explosive if not addressed before the TMP was completed.

The Process:

The TMP planning team did not want to use an advisory committee to deal with concerns over the plan for two reasons. First, a nearby OMNR District had used an advisory committee to prevent and resolve conflicts and its success was dubious. Second, the

planning team was confident that knowing the nature and mood of the majority of the local citizens, there would not have been support for a committee. With these factors in mind, the planning team tried a different approach. The concerns over the TMP were coming mainly from tourist outfitters who were worried about the impacts of the TMP on their businesses. To address the concerns and prevent future conflicts, two representatives from the planning team (one from OMNR and one from the company responsible for the TMP) went out and met with each concerned stakeholder, one by one. The company and the OMNR had been working on the TMP for several months and it was obvious who the stakeholders were. In addition, they had a good idea as to the nature of the concern even before the first meeting with the stakeholder. Issue-specific decisions were made by the OMNR, company representative and the stakeholder, usually at the site of concern. If the concern could not be adequately addressed on the first visit, the OMNR and industry representative would continue to return until a resolution was achieved. Minutes of each meeting were kept so that a record of all agreements and commitments could be kept.

CASE 13: Magpie Forest Co-Management Committee

This case concerns a common type of natural resource conflict - remote tourism versus timber management. At the root of this conflict was the concern from the tourist outfitters that the "remoteness" of their lodges and outpost camps was being threatened by the impact of timber management activities. In addition, forest access roads were enabling sportsmen to access the tourism lakes by "non-traditional" methods. This access was seen to be a threat to

the quality of the fisheries on remote tourism lakes. This conflict was not new to the Magpie Forest - it had been obvious for several years. A full EA on the TMP had been called for (but was denied), suggesting that the conflict was escalating. The long-standing tension between the residents of Wawa, Hornepayne, Hearst and Dubreuilville and the history of mistrust among OMNR, tourist outfitters, local sportsmen and forest products companies indicated that there were many obstacles to be overcome if agreements were to be reached. Given the conditions of the situation, there would be great difficulty in finding an agreement and the case had clearly become one of resolution, far beyond the point of prevention.

The Process:

It was clear that a new method of resource planning and management on the Magpie Forest was necessary. It was also clear that the OMNR could not take a lead role in a new management planning process because government employees were not trusted by many stakeholders. The development of the Magpie Forest Co-Management Committee was a significant step above the minimum planning requirements. The advertisement for committee member applicants and the use of an independent professional facilitator to select committee members and help get the committee running was a progressive shift from the status quo. The facilitator helped the committee develop its own mission statement, goals and mandate. The use of a neutral facilitator took the decision-making pressure away from the OMNR. For the committee to be accepted by all stakeholders, it was essential that the OMNR not be seen as influencing the composition or workings of the group. The committee operates at

arms length from the OMNR and any recommendations put forth to the District Manager are taken with as much weight as recommendations from OMNR staff.

This case shows a high level of public participation in resource planning. The committee informed the process, participated in the process, and, with the help of a facilitator, designed the process. Although the committee does not participate in actual decision-making, it has significant input. Given the history of bad relations between stakeholders and the OMNR, it was essential for the OMNR to initiate a process that goes a long way in satisfying the needs and desires of the users of the Magpie Forest.

CASE 14: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee

The committee was created to address problems associated with the fish populations of the four lakes. The problem pitted the local fishermen against the tourist operators with respect to fishery management and access to the lakes. Although the problem the committee faced was one of overfishing, an underlying and potentially larger problem was that the stakeholders did not get along. The local press was aware that these people mistrusted each other and reported so. Relations were so bad that minute-taking was not enough and all meetings had to be audio-taped for future reference. In addition, the committee agreed there would be no press releases and no discussions outside the meetings.

Getting the committee to agree to a common set of data on the state of the fisheries proved to be difficult and the minutes of the early meetings focused on positions rather than common ground and issues. The committee needed to prepare recommendations which would prevent the fisheries from further degradation and work together to try to resolve some of the long-standing conflicts. The stakeholders knew somebody was going to have to take a cut in fish consumption in order to preserve the fisheries. The question was - who was going to take the cut, and how much? The committee's written mandate was one of conflict prevention, but the unwritten mandate was resolution. However, many obstacles faced the committee, and finding an agreement was uncertain.

The Process:

The OMNR asked the committee to come together and develop recommendations for saving and enhancing the fisheries. The DM selected members for the committee from the names submitted by solicited stakeholders and organizations. The detailed terms of reference and a six-month mandate were developed by the OMNR and accepted by the committee. Except for the provision of resource information, this is where the OMNR's influence on the committee more or less stopped. At the request of the OMNR, the committee was to operate at arms length from the OMNR, with the committee electing its own chair. For a variety of reasons (pressure from the press, bad relations, context of the minutes, uncertain data) the committee did not operate well on its own for the first six months, and there was potential for the committee to do more harm than good. An independent facilitator was brought in to

try to help get the committee back on track and headed in a positive direction. The facilitator helped the committee develop a common set of data and a framework for creating recommendations. The committee then was left to develop the recommendations. Several months later, the facilitator was brought back to refine the recommendations and prepare a final report.

The use of a committee to resolve the fishery problems was an important step above the minimum management planning requirements. An independent facilitator and a biologist from outside the District were essential adjustments to the process. The committee worked at arms length from the OMNR, indicating a significant shift from the status quo of resource planning.

CASE 15: Nagagami Forest, Granite Hill/Obakamiga Lakes

This was a complicated case of remote tourism versus timber management versus local angling/hunting. A long history of deeply-rooted mistrust, misinformation and broken promises characterized this case. The remote tourism operators called for a moratorium on all timber operations in an area of five km around their tourism lakes in the upcoming TMP to protect them from the effects of timber management. The FMA holder and the logging contractor both felt this buffer was too large and that they needed the wood in the area, particularly sawlogs. To complicate things further, local recreationalists wanted to maintain access to local lakes for recreational fishing and hunting. The local residents wanted to make

sure the town's sawmill stayed open because it was the primary employer for the area. The conflict had existed for several years, but the stakeholders had managed more or less to stay out of each other's way. However, a new 5-year TMP was being developed and it was inevitable that the conflict had to be resolved - there was simply nowhere else to go. In summary, both sides of the conflict needed trees but they needed them in different ways: one needed them cut and in the mill, and the other needed them standing in the natural landscape.

The OMNR staff responsible for the forest did not have a good reputation with the stakeholders. In the past there had been too many broken and unfulfilled promises. At the outset of the resolution process, things did not look promising, as the deadline for the TMP was near and many of the stakeholders were strong-minded people entrenched in their views and in what they felt were their rights. A final complicating factor was that there was no provincial remote tourism policy or a provincial definition of traditional access that the group could work from. If there had been a provincial policy, like the timber management policy, the conflict may not have escalated to the point it had.

The Process:

A customized resolution process that was not driven by the OMNR was necessary. The TMP planning team recognized this and asked a consultant to meet with the stakeholders and make an assessment of the situation and provide advice on the avenues the groups could pursue. The consultant and the OMNR DM identified the stakeholders that should be

involved. The consultant met with each of the stakeholders to learn about the concerns and to find out if there was enough common ground among groups that some sort of a resolution could be found. The consultant filed a report outlining his findings and listing the various alternatives the groups could pursue to resolve the conflict. The report recommended a form of facilitated negotiations as the most promising avenue. A few months after the stakeholders had received the report, a facilitated negotiation process was initiated, with the consultant as facilitator.

The first meeting of the stakeholders with the consultant was one of information - the facilitator outlined the process of facilitated negotiations and the group began to develop groundrules by which the negotiations would proceed. The group was aware of the TMP deadline and they agreed to try to meet the deadline. Over the next several months, the group met with the facilitator to discuss their differences. Several meetings and conversations between the facilitator and individual stakeholders occurred. The progress made by the group was slow and one of the biggest obstacles was a mutually agreeable definition of traditional access. For a variety of reasons, the group could not agree on such a definition and until they could, little progress could be made on timber harvest allocations and other issues. Eventually the negotiations broke down and the facilitator felt there was no point in continuing to negotiate. The facilitator filed a report with the stakeholders and the OMNR outlining the progress that had been made and reasons why an agreement could not be reached. At this point the conflict had not been resolved and it was left to each of the stakeholders to carry on as each saw fit.

CHAPTER 5: RESULTS AND DISCUSSION

PROCESS SPECTRUM

In the previous chapter, the problems and process of each case were outlined. From the set of cases, five distinct processes of stakeholder input and decision-making for the prevention and/or resolution of conflicts have been identified (Figure 5.1): public consultation, unassisted committee structures, unassisted negotiations, partial mediation/facilitation, and full mediation/facilitation. The cases and corresponding processes represent a wide spectrum of citizen involvement in natural resources decision-making. The processes have been arranged in Figure 5.1 in order of least stakeholder influence on the decision-making process (public consultation) to the greatest stakeholder influence (full mediation/facilitation). This arrangement does not imply that one process is better than any other; it only represents levels of public involvement. As will be shown later, characteristics and factors which are unique to each process play an important role in determining which approach is best. It is important that natural resource decision-makers, managers and users be aware of the variety of consultative and participatory approaches available to them for the prevention and/or resolution of natural resource conflicts. Moreover, no single approach is applicable to all cases. The particular circumstances of a case will determine which approach is most appropriate.

1.) Public Consultation

CASE 1: Public Consultation During Preparation of a Timber Management Plan

CASE 2: Sapawe Crown Management Unit

2.) Unassisted Committee Structures

CASE 3: Public Advisory Committee for the Mallette Timber Management Plan

CASE 4: Trout Lake Co-management Group

CASE 5: Lac Seul Forest Timber Management Stakeholders Committee

CASE 6: Terrace Bay Stakeholders Committee

CASE 7: Sudbury District Advisory Committee

CASE 8: Lac Des Mille Lacs Lake Management Plan

3.) Unassisted Negotiation

CASE 9: Wild Rice

CASE 10: Brightsand Forest

CASE 11: Seine River FMA

CASE 12: Wabigoon Forest

4.) Mediation / Facilitation (Partial)

CASE 13: Magpie Forest Co-Management Committee

CASE 14: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee

5.) Mediation / Facilitation (Full)

CASE 15: Nagagami Forest, Granite Hill/Obakamiga Lakes

Figure 5.1. Five kinds of consultative and participatory decision-making process with the fifteen cases assigned.

Justification of Case Placement

Cases 1 and 2 characterize the basic requirements of public consultation during the preparation of a timber management plan (Case 1) and a major amendment to a timber management plan (Case 2), as outlined in the Timber Management Planning Manual for Crown Lands in Ontario (OMNR 1986a). These requirements are the benchmark from which all the other cases are compared. Although Case 2 used supplementary mechanisms, the TMP Manual requirements were the focus of the process.

Cases 3 to 8 all utilized some form of unfacilitated committee structure to collect stakeholder input, in addition to traditional public consultation mechanisms. While the mandate, terms of reference, membership, decision-making authority, etc. of the committees was unique to each case, the common factor was that a committee was established and used to provide advice to decision-makers.

Case 9 was the only case of negotiations between multiple parties. Negotiations regarding the harvesting of wild rice on Mud Lake were held between several native groups, local citizens and the provincial and federal governments. The negotiation took several forms throughout the conflict, from a tribunal hearing to meetings with senior politicians and bureaucrats. The provincial government retained sole decision-making authority throughout. Cases 10 to 12 were two-party negotiations. Due primarily to the people involved, the nature of the conflict and approach to the negotiation, the structure and duration of the

negotiations in each case varied. The common factor in these cases was that negotiation and bargaining among parties took place through a variety of mediums (face-to-face meetings, letters, telephone calls, site visits, etc.) in order to prevent and/or resolve conflict.

Partial mediation/facilitation processes were used in cases 13 and 14 to supplement public consultation and input and to prevent and resolve conflicts. These cases are distinguished from the other committee structures because an external, neutral facilitator was used in each case. In Case 13, the facilitator helped establish the committee and get it running. In Case 14, the facilitator was used to help the committee get back on track after a rough start, and later to help the committee write its final report. Cases 13 and 14 are examples of partial facilitation/mediation because in both cases the facilitator was used only for specific portions of the committee's work.

Case 15 is the only case of full facilitation/mediation. In this case, a neutral, third-party facilitator was used throughout the entire negotiation process. The facilitator helped identify the essential stakeholders, met with them individually, brought the parties together, helped develop groundrules and facilitated meetings throughout the process. All decisions agreed to by the parties would be incorporated into the TMP, provided they were legal and feasible.

In summary, public consultation as outlined in the TMP planning manual is well established and standardized. Committee structures have minor variations with respect to structure, mandate, decision-making authority, etc. but are designed and implemented to enhance

traditional public consultation, participation and decision-making. Unassisted negotiations are formal or informal ways beyond traditional public consultation of preventing and/or resolving conflicts. Full and partial mediation/facilitation are assisted processes of conflict prevention and/or resolution. In addition, these processes are usually the highest form of shared decision-making.

SOURCES OF CONFLICT

As discussed in Chapter 3, several authors have attempted to classify natural resource and environmental conflicts by source or cause of conflict. Because there is not a singular, generally accepted approach to the classification of conflicts by source, a synthesis of sources was created, including five sets of sources of conflict:

A = Data/Cognitive/Understanding/Fact/Knowledge/Perceptions

B = Behaviour/Relations/Personality

C = Distributive/Interests/Substantive

D = Structure/Rights/Decision-Making/Process

E = Values/Principles

The relative roles of each source of conflict was evaluated for each case as being either Low, Medium or High. This evaluation was made by assessing each set of sources of conflict in the context of data and materials collected for each case. Based on the data, sources of

conflict which were not significant for the conflict in question were assessed as Low.

Sources of conflict which the data supported as being significant or major were assessed as Medium and High respectively for each case.

The relative roles of each source of conflict in each case is presented in Table 5.1.

CASES	SOURCES OF CONFLICT*				
	A	B	C	D	E
1	N/A	N/A	N/A	N/A	N/A
2	Medium	Medium	High	Medium	High
3	Low	Low	Low	Low	Low
4	High	Medium	Medium	Medium	Medium
5	Medium	Medium	Medium	Medium	Medium
6	Low	Low	Low	Low	Low
7	Medium	Low	Low	Low	Low
8	Low	Low	Low	Low	Low
9	High	Low	High	High	High
10	Low	High	High	High	Medium
11	High	High	High	Medium	Medium
12	Medium	Medium	Medium	Medium	Low
13	Medium	High	High	High	High
14	High	High	High	High	High
15	High	High	High	High	High

* Sources of Conflict

A = Data/Cognitive/Understanding/Fact/Knowledge/Perceptions

B = Behaviour/Relations/Personality

C = Distributive/Interests/Substantive

D = Structure/Rights/Decision-Making/Process

E = Values/Principles

CASE 1: Public Consultation During Preparation of a Timber Management Plan

CASE 2: Sapawe Crown Management Unit

CASE 3: Public Advisory Committee for the Mallette Timber Management Plan

CASE 4: Trout Lake Co-management Group

CASE 5: Lac Seul Forest Timber Management Stakeholders Committee

CASE 6: Terrace Bay Stakeholders Committee

CASE 7: Sudbury District Advisory Committee

CASE 8: Lac Des Mille Lacs Lake Management Plan

CASE 9: Wild Rice

CASE 10: Brightsand Forest

CASE 11: Seine River FMA

CASE 12: Wabigoon Forest

CASE 13: Magpie Forest Co-Management Committee

CASE 14: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee

CASE 15: Nagagami Forest, Granite Hill/Obakamiga Lakes

Table 5.1. Significance of five sources of conflict in the cases examined. Low, Medium and High are subjective judgements based upon the information in Appendix IV. Case 1 is not applicable (N/A) to this table because standardized methods of public consultation are the same regardless of the source of conflict.

Clearly there is a great deal of variability between cases in the influence of the sources of conflict. Table 5.1 shows that for the 15 cases studied, no source of conflict is most common or most significant. This suggests that sources of conflict are unique to each case.

The type of public consultation process may be influenced by the number of sources of conflict and level of significance of the sources. Table 5.1 shows several cases where the significance of all sources of conflict was "Medium" to "High". In such cases, the need to improve public consultation/participation seems warranted. Committee structures and explicit negotiation processes (as outlined in Figure 5.1) are promising approaches. Thus, the more complex and strong the array of causes of conflict, the stronger the need for customized prevention and/or resolution processes.

The sources of conflict and their relative significance are not fixed and are likely to change during a prevention or resolution process. Changes can be caused for a variety of reasons such as: approaching deadlines, additional stakeholders coming to the table, additional issues to be addressed, stakeholder frustration with the process or with other stakeholders, changes in demands or positions. By monitoring the sources of conflict and their relative significance during a process, participants are in a better position to make necessary adjustments to the process.

APPROACH CHARACTERISTICS

One way of further examining conflict prevention/resolution processes is to look at characteristics of the processes which could have a significant effect on their functioning and subsequent success. In this section, each case is assessed against five key aspects of conflict prevention/resolution processes: initiation, implementation, objective, type, and authority of the processes used in each case. These traits were selected because I judge them to have significant influence on the functioning of the processes and can be adjusted by process designers or stakeholders to make the process more effective or efficient. The list does not include factors which are beyond the control of the organizing agency or stakeholders. These would include such factors as personalities of participants, stubborn stakeholders, hidden agendas, and stakeholders with strongly based values or principles.

Initiation of the Process

For most natural resource and environmental conflicts involving Crown land in Ontario, a government agency (usually the OMNR), as manager of the Crown land, usually initiates prevention/resolution processes. Process options are numerous. Often, concerned stakeholders approach the agency with concerns and ask for action to be taken to address them. Although the agency ultimately decides on what action is to be taken, the decision is often strongly influenced by recommendations from stakeholders.

Sometimes a forest-products company as FMA holder will initiate conflict prevention/resolution process. The OMNR may work with the company in initiating enhanced public consultation/participation processes. However, government assistance is not always necessary, and industry is increasingly taking the initiative on its own.

An important factor is the justification for initiating a conflict prevention/resolution process. If a process is initiated by either government or industry with input and support from other stakeholders, the process will likely be looked upon favourably. However, if a process is implemented by government or industry and other stakeholders feel it is unnecessary, unjustified, or do not understand the reasons, the process is likely not to be supported. In the extreme, sceptical stakeholders will oppose the process and feel threatened or marginalized.

Implementation of the Process

In most cases, the party which initiates a process also oversees its implementation. In general terms, processes can be implemented using either a top-down or bottom-up approach. In a top-down approach, the agency identifies and selects individual stakeholders or groups, and develops the mandate, terms of reference and groundrules. Stakeholders have little to do with creating or implementing the process, and are more or less invited to participate in a pre-arranged process.

In a bottom-up process, the agency will approach potential stakeholders and groups with issues and concerns which need to be addressed and possibly a framework for the development of a mandate and groundrules. The stakeholders will work with the agency to select participants and develop a mandate, terms of reference and groundrules. In a bottom-up implementation, the stakeholders have a larger role in creating and implementing the process. This is important in giving the stakeholders a stronger sense of purpose and level of influence. In general, the more the stakeholders are able to influence the design of the process, the more confident in the process and empowered they will feel.

Objective of the Process

There are two main objectives for conflict-addressing processes: prevention and resolution. Sometimes both objectives are adopted. The objective of the process can strongly influence its functioning. Prevention-oriented processes tend to have open-ended timeframes, relations among stakeholders are generally amicable, and there is ample opportunity for participants, leaders and consultants to inform each other on related topics such as methods of resource management. In addition, stakeholders have plenty of time to come up with creative and innovative solutions.

In a resolution-oriented process, the time for prevention has passed and there is a need to find a solution to the conflict. The group is usually faced with an imminent deadline, and relations among stakeholders are often strained. Because of the urgency, only top priority

issues will be addressed, and there is less opportunity for stakeholder education. Tension among stakeholders may be necessary for the formation of creative solutions.

Processes designed for both prevention and resolution will focus first on issues which require resolution. The stakeholders may change as issues move from those requiring resolution to those requiring prevention.

Type of Process

Conflict prevention and/or resolution processes usually begin as ad hoc processes. At the end of the process mandate, the parties and the initiating agency often review accomplishments. It is then determined if the parties should continue as a standing group to monitor implementation of the results of the initial mandate or to address a new set of issues and concerns under a new mandate. Committee-oriented processes are most likely to shift from an ad-hoc to a standing basis.

The most significant difference between ad-hoc and standing processes is mandate and timeframe. Ad-hoc groups tend to have a narrowly focused and specific mandate with a specified timeframe. Standing groups tend to have a much broader mandate without a specified timeframe. Prevention-oriented processes tend to be created as standing with a long-term timeframe, or started as ad-hoc and eventually changing to standing. Resolution-oriented processes tend to be ad-hoc with a short-term timeframe and a mandate to address

specific issues. The ad-hoc process may or may not carry on with monitoring if an agreement is reached.

Authority of Process

The authority or power delegated to, or withheld from, parties in a conflict is a vital factor affecting the function and outcome of a conflict prevention/resolution process. Participants may be working in an advisory capacity of various forms, or they may be given decision-making authority. The authority of participants is usually determined by the organization holding legal responsibility for making management decisions for the resources or land in question. This is usually a government ministry when Crown lands are concerned. When a company working on Crown lands initiates a conflict prevention/resolution process, it can determine the authority given to participants. However, most management decisions for public land lie ultimately with the government agency with legislated decision-making authority, and it normally retains the right to implement all, part or none of the agreements reached by process participants.

The mandate and capacity of advisory conflict prevention/resolution processes can vary greatly. At one end of the spectrum, the advisory role is clear. The participants come up with recommendations and submit them to a higher decision-making authority such as an OMNR District Manager for consideration and action. In the middle, processes are given the mandate to come up with solutions or recommendations which are submitted to a higher

authority for consideration and action. An agreement, written or unwritten, between the decision-making authority and the participants may state that compelling reasons are needed for rejecting the recommendations. At the other end of the spectrum, advice-making is in reality decision-making. Thus, the agreement between participants and the decision-making authority would be that recommendations will be implemented if they are legal, moral, and feasible. In some processes, the mandate or terms of reference will outline an appeal mechanism to a higher decision-making authority for stakeholders who are not satisfied with how recommendations are treated by the immediate authority.

Pros and cons accompany both an advisory and a decision-making process. One advantage of an advisory process is that the definition of advice-giving can be tailored to suit the issues, conflict and stakeholders. A debatable advantage is that the agency legislated with the decision-making authority retains this authority. This is a debatable advantage because many stakeholders may perceive this retention of power as being authoritative, making them sceptical of the process. A major disadvantage of advisory-based processes lies with the continued interest and motivation of participants. If they have no way of seeing how their work is influencing the decision-making process, or if they feel that their work is merely token, they will quickly become frustrated with the process. Feelings of tokenism among participants will not only hinder an existing process but it will make stakeholders reluctant to get involved in future processes. Participants need to feel a sense of mission or worth if they are to continue to participate in conflict prevention/resolution processes.

One advantage of giving decision-making authority to participants in conflict prevention/processes is that it takes pressure off the decision-making authority. In most cases, it is easier for the authority to remain blameless if it implements solutions from stakeholder agreements. Another advantage is that when participants are given decision-making authority, they feel empowered with a strong sense of purpose. This feeling may add to the group's incentive for finding creative and innovative solutions to issues and conflicts. A disadvantage is that the decisions made by the group may not be in the best interest of society as a whole. This can be avoided if participants are well aware of the implications of options before decisions are made. This can be done by drawing on the knowledge of a variety of natural resource experts and interest groups.

In summary, the authority given to participants in a conflict prevention/resolution process is important to both function and outcome. There are several levels of an advisory mandate, but a decision-making mandate is clear. Both types of authority have pros and cons and significant implications. Therefore, careful consideration must be given to the authority of process participants.

In Table 5.2 I have assessed the characteristics of approaches used in each case. The industry-initiated processes (Cases 10 and 11) are bottom-up approaches, resolution oriented, ad-hoc and decision-making. On the other hand, government initiated processes (Cases 1, 4, 5, 6, 7, 13 and 14) tend to be top down, advisory approaches. Does this imply that when the government initiates a process, it follows a more or less generic approach and retains

decision-making authority, whereas industry-initiated processes have a higher possibility for decision-making to be shared? Perhaps so for the former, but two industry-led processes are hardly sufficient evidence for concluding the latter. Ultimately, each case of conflict prevention/resolution is unique, and process initiators must consider each influencing factor individually in the context of the issues at hand. In such considerations, experiences with other processes should be examined.

CASE	APPROACH CHARACTERISTICS				
	INITIATION Government or Industry	IMPLEMENTATION Top Down or Bottom up	OBJECTIVE Prevention or Resolution	TYPE Standing or Ad-hoc	AUTHORITY Decision- Making or Advisory
1	Government	Top Down	Both	N/A	Advisory
2	Government	Top Down	Resolution	N/A	Decision-Making
3	Both	Top Down	Prevention	Ad-hoc	Advisory
4	Government	Top Down	Both	Ad-hoc	Advisory
5	Government	Top Down	Prevention	Ad-hoc	Advisory
6	Government	Top Down	Prevention	Standing	Advisory
7	Government	Top Down	Prevention	Ad-hoc	Advisory
8	Government	Bottom Up	Prevention	Ad-hoc	Decision-Making
9	Government	Top Down	Resolution	Ad-hoc	Decision-Making
10	Industry	Bottom Up	Resolution	Ad-hoc	Decision-Making
11	Industry	Bottom Up	Resolution	Ad-hoc	Decision-Making
12	N/A	Bottom Up	Prevention	N/A	Decision-Making
13	Government	Bottom Up	Both	Standing	Advisory
14	Government	Bottom Up	Both	Standing	Advisory
15	Government	Bottom Up	Resolution	Ad-hoc	Both

CASE 1: Public Consultation During Preparation of a Timber Management Plan

CASE 2: Sapawe Crown Management Unit

CASE 3: Public Advisory Committee for the Mallette Timber Management Plan

CASE 4: Trout Lake Co-management Group

CASE 5: Lac Seul Forest Timber Management Stakeholders Committee

CASE 6: Terrace Bay Stakeholders Committee

CASE 7: Sudbury District Advisory Committee

CASE 8: Lac Des Mille Lacs Lake Management Plan

CASE 9: Wild Rice

CASE 10: Brightsand Forest

CASE 11: Seine River FMA

CASE 12: Wabigoon Forest

CASE 13: Magpie Forest Co-Management Committee

CASE 14: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee

CASE 15: Nagagami Forest, Granite Hill/Obakamiga Lakes

Table 5.2. Characteristics of approaches used in each case. N/A means not applicable.

CONFLICT VERSUS PROCESS FRAMEWORK

I have found it useful to place each case along each of two continua arranged into a figure (Figure 5.2). The continua are: (a) characteristics of the conflict; and (b) the degree of customization of the prevention/resolution process. This analysis searches for relationships between conflict characteristics and process design.

The absolute placement of the cases within the framework is subjective. However, I am confident that the relative placement of cases within the framework (Figure 5.2) is repeatable and representative of the data collected.

The Framework

The x-axis of Figure 5.2 represents conflict characteristics which are described by the status of conflict, objective of the process, and chance of agreement. These three characteristics are highly correlated and therefore used to represent one axis. The status of conflict ranges from weak to strong and describes the intensity of the conflict. The objective of the process ranges from prevention to resolution and represents the urgency of finding an agreement.

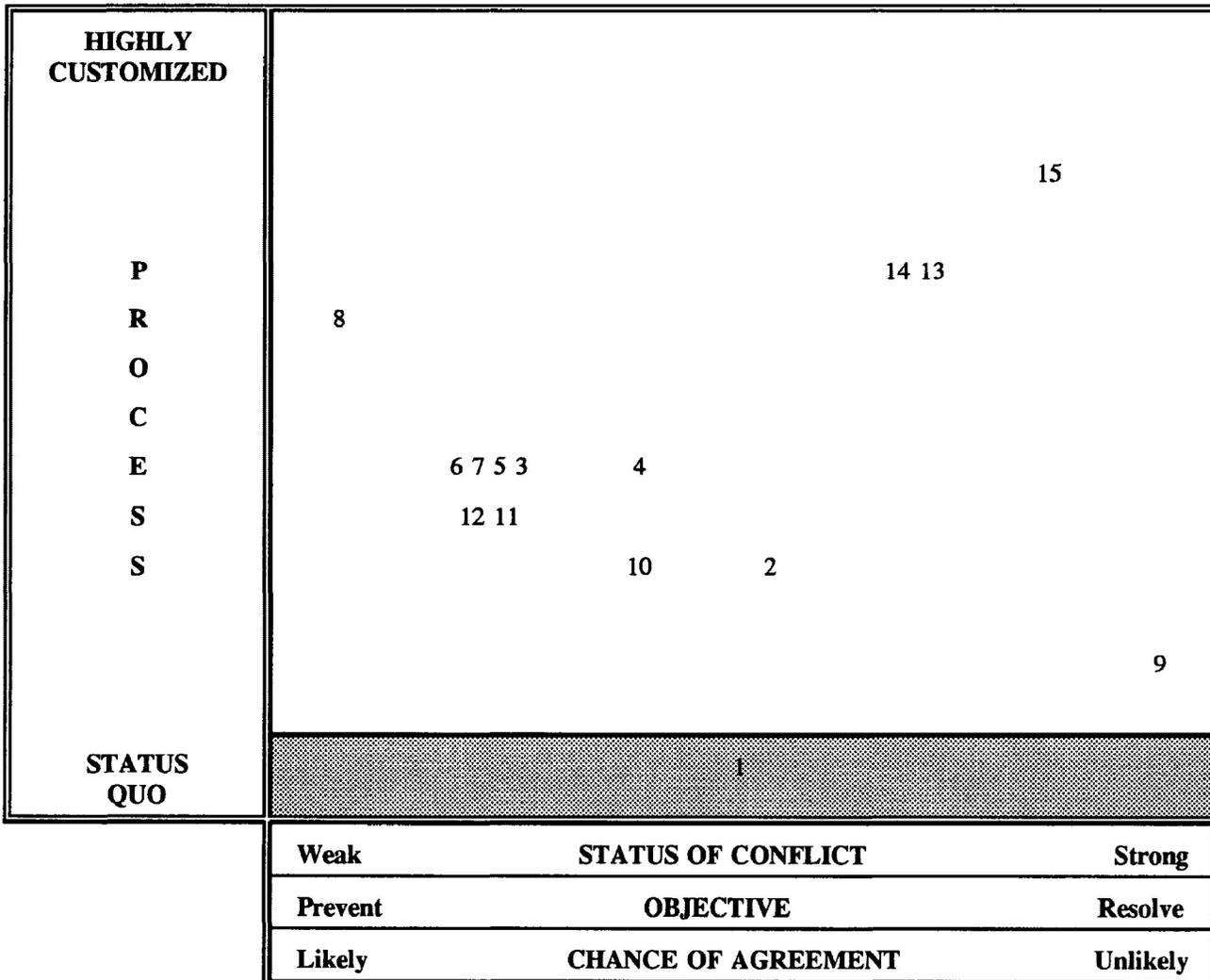
The chance of agreement ranges from likely to unlikely, or easy to difficult. The left end of the x-axis represents cases in which the conflict is weak, the process objective is prevention, and it should be relatively easy to find an agreement. Cases on the right end of the x-axis are extreme with strong conflict, a process objective of resolution, and relative difficulty in

finding agreement.

The y-axis represents processes used to prevent or resolve conflicts. The bottom of the y-axis represents the status quo of public consultation processes which is generally the minimum amount and type of public participation and consultation (e.g., the Timber Management Planning Process for Crown Lands in Ontario (OMNR 1986a)). The top of the y-axis represents significant customization of processes of consultation, participation, and negotiation.

Both the x and y-axis are qualitative representations, indicating relative rather than absolute values.

CONFLICT VERSUS PROCESS FRAMEWORK



- CASE 1: Public Consultation During Preparation of a Timber Management Plan
- CASE 2: Sapawe Crown Management Unit
- CASE 3: Public Advisory Committee for the Mallette Timber Management Plan
- CASE 4: Trout Lake Co-management Group
- CASE 5: Lac Seul Forest Timber Management Stakeholders Committee
- CASE 6: Terrace Bay Stakeholders Committee
- CASE 7: Sudbury District Advisory Committee
- CASE 8: Lac Des Mille Lacs Lake Management Plan
- CASE 9: Wild Rice
- CASE 10: Brightsand Forest
- CASE 11: Seine River FMA
- CASE 12: Wabigoon Forest
- CASE 13: Magpie Forest Co-Management Committee
- CASE 14: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee
- CASE 15: Nagagami Forest, Granite Hill/Obakamiga Lakes

Figure 5.2. Placement of each case on the Conflict Versus Process Framework. Numbers in the Framework refer to case numbers.

Placement of Cases Within the Conflict versus Process Framework

CASE 1: Public Consultation During Preparation of a Timber Management Plan

The minimum requirements for public participation as outlined in the TMP planning manual can be placed anywhere along the x-axis. Thus, regardless of the status of the conflict, number of obstacles or uncertainty of finding an agreement, the planning team implements the basic requirements for public consultation. Processes of public consultation which go beyond the status quo, and take into account factors such as status of conflict, number of obstacles and difficulty in finding agreement, will have a specific location above the x-axis. Thus, modifications to the public consultation process which enhance or increase public input will shift the process upwards along the y-axis. The more quality opportunities for the public to inform, participate, design and share in the decision-making process, the greater the shift upwards.

CASE 2: Sapawe Crown Management Unit

Because this case is one of a value conflict (cut versus preserve old growth), the conflict was quite heated (Figure 5.2). Value-based conflicts often have many obstacles and a high degree of uncertainty with respect to finding an agreement. The call for a full EA and the involvement of provincial groups made the process one of resolution.

Although the process to resolve the conflict was essentially that of a TMP amendment, it was customized to achieve the most useful and effective public and professional input. In addition, given the work of the Old Growth Policy Advisory Committee, there was not much more the local OMNR could have done.

CASE 3: Public Advisory Committee for the Mallette Timber Management Plan

The committee operated in a conflict prevention capacity with few obstacles to overcome before reaching agreement (Figure 5.2). The one conflict that emerged was resolved by the committee before it escalated.

Use of the committee to advise during the TMP planning process was an opportunity for stakeholders to inform and participate in the decision-making process. Although the OMNR and the planning team took a strong lead role in determining committee function, the process was a step above the minimum public consultation process (Figure 5.2). The creation of the District Advisory Committee indicates that the TMP advisory committee was a success.

CASE 4: Trout Lake Co-management Group

The conflict in this case was moderately strong (Figure 5.2), with a definite possibility of escalating rapidly, especially with the negative influence of the local newspaper. Although stakeholders had different views and opinions about the fisheries, a common set of data was

ultimately accepted and few obstacles subsequently prevented the group from reaching agreement.

Use of the committee was a refinement beyond basic public participation processes (Figure 5.2). Although the OMNR had a strong role in development of the group and selection of members, the group operated more or less on its own. In addition, the OMNR extended the group's mandate and kept the committee for plan implementation. In this case the group informed and participated in the public consultation process and, through the powers of the Chair, had a say in the process design.

CASE 5: Lac Seul Forest Timber Management Stakeholders Committee

No major conflicts confronted the committee and few obstacles prevented the group from reaching agreement (Figure 5.2). The committee worked from a more-or-less prevention mandate.

Use of the committee was a shift from the minimum public involvement requirements (Figure 5.2). The committee elected its own Chair and was able to develop its own organizational and procedural rules. The appeal mechanism outlined in the terms of reference allowed committee members to challenge the decision-making if they were not in favour of the decisions made.

CASE 6: Terrace Bay Stakeholders Committee

There were no major conflicts confronting the committee and few obstacles prevented the group from reaching agreement (Figure 5.2). The committee worked from a more-or-less prevention mandate.

The committee was instigated by the OMNR, which prepared the terms of reference and mandate. This was a significant departure from the traditional public involvement requirements in resource planning (Figure 5.2).

CASE 7: Sudbury District Advisory Committee

The committee was not established to deal with existing conflicts, so its function was primarily conflict prevention (Figure 5.2). The obstacles facing the committee were few and difficulty in finding agreement was perceived as being low.

The advisory committee represents a significant departure from the minimum requirements of natural resource planning (Figure 5.2). The committee members were empowered to inform the process but were limited to an advisory capacity.

CASE 8: Lac Des Mille Lacs Lake Management Plan

Conflicts in this case were essentially absent and it was primarily a prevention exercise with few obstacles. This case exemplified a highly customized planning process which far exceeded the minimum requirements (Figure 5.2).

CASE 9: Wild Rice

This conflict was heated as indicated by the armed confrontation of August 29/30 1982. Given the way the government was treating the situation, there were many obstacles to finding an agreement. In addition, the conflicting data on the health of the wild rice and the effects of mechanical harvesting complicated the situation even more. This case was one of resolution (Figure 5.2), and the resolution process used as a last resort was one of confrontation and civil disobedience.

The process used to attempt to resolve the conflict was one of hearings, meetings and negotiations. However, it seemed that the real process was one of political influence and unjustified power-taking by the government. The process used was barely the status quo and resembled internal government decision-making as opposed to an open, publicly accessible process (Figure 5.2).

CASE 10: Brightsand Forest

The status of conflict in this case was quite high. The fact that all parties continued to negotiate and that the operator did not call for a formal EA indicates that the conflict had not reached a critical level. The negotiations went on for a long time and positions and proposals changed frequently. This suggests that there were many obstacles to be overcome and the chance of reaching agreement was uncertain (Figure 5.2).

The negotiations and political lobbying used to resolve this conflict were not a highly customized process. In addition, the approach did not pay much attention to process design and, as a result, the negotiations continued for a number of years. Considering there were only three parties involved (the OMNR, the company and the operator) a negotiations process was the most appropriate. A more principled approach to the negotiations could have been more effective and efficient.

CASE 11: Seine River FMA

Until two weeks before the TMP was to be submitted for approval, little conflict was apparent, obstacles to the plan development had been overcome, and foreseeable conflicts had been prevented. No one was sure why the stakeholder in question waited so long to come forward with his concerns, but his actions quickly created conflict (Figure 5.2). What was expected to be an acceptable TMP quickly became uncertain.

The planning team's approach of visiting individual stakeholders who had concerns was a significant shift from the minimum requirements of the planning process. The use of one-on-one negotiations and proposals was significantly beyond the status quo of planning (Figure 5.2).

CASE 12: Wabigoon Forest

Conflicts in this case were weak and the obstacles preventing agreement through personal meetings and negotiations were few (Figure 5.2). The personal meetings were an exercise in conflict prevention.

By going out to meet with concerned stakeholders to discuss and resolve concerns the planning team used a public consultation process that was above the minimum requirements (Figure 5.2).

CASE 13: Magpie Forest Co-Management Committee

The Magpie Forest conflicts are relatively strong, with a long history of mistrust, deeply rooted positions, and the request for a full EA (Figure 5.2). The poor relationships among forest users suggested that there were many obstacles and much uncertainty about finding agreement. This was clearly a case of conflict resolution.

Creation of a co-management committee and use of an independent facilitator were significant steps beyond minimum resource planning requirements (Figure 5.2). If this committee had been granted true co-management power, it would have had a stronger role in decision-making. The OMNR is not formally bound to accept the recommendations of the committee, which suggests the committee is working at less than a full interpretation of co-management.

CASE 14: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee

The conflict was relatively heated, primarily due to the bad relations among the stakeholders. The obstacles facing the committee were numerous, creating a high degree of uncertainty as to whether an agreement would be reached (Figure 5.2).

The use of a committee operating at arms length of the OMNR, an independent facilitator, a biologist, and an independent, committee-selected chair made this a unique and successful process (Figure 5.2). Although the DM selected the committee members and the mandate and terms of reference were developed by the OMNR, there was a strong opportunity for the committee to participate fully in the decision-making process.

CASE 15: Nagagami Forest, Granite Hill/Obakamiga Lakes

The conflict in this case was heated with many obstacles preventing agreement (Figure 5.2).

The most apparent of these obstacles was the long-standing mistrust and misunderstanding among stakeholders and the inability of the group to agree on a definition of traditional access. The strong-minded stakeholders with entrenched views also proved to be significant obstacles and added to the difficulties. A TMP-imposed deadline added to the pressure of the resolution process.

The highly customized design of the attempted resolution process (Figure 5.2) was necessary if resolution were to be achieved. Use of a consultant to assess the situation and a facilitator for the negotiations was far beyond the minimum planning requirements. Although not formally stated, if the group had been able to resolve the conflicts and the solutions were within OMNR policy, the TMP would have been accepted. This would have been a case of true shared decision-making.

Interpretation of the Framework

The case locations in Figure 5.2 can be divided into five groups:

Group A: Case 1

Group B: Case 8

Group C: Cases 6, 7, 5, 3, 4, 12, 11, 10, 14, 13, 15

Group D: Case 2

Group E: Case 9

Each group of case(s) has a uniqueness which is related to the characteristics of the case and the process used to prevent or resolve conflict.

Group A (Case 1) represents the minimum required public consultation and participation during the preparation of a natural-resource management plan (e.g., a TMP as outlined by the OMNR (1986a)). These requirements are applied regardless of the characteristics of a conflict. Whether these minimum requirements can prevent and/or resolve conflicts will be highly dependent on the issues and stakeholders involved.

Approaches used in the case of Group B (Case 8) are highly preventative. The use of a highly customized public consultation and participation process early in the planning process, when the conflict is weak and the chance of finding agreement is likely, is a laudable approach to decision-making. However, one could reason that customized processes would be needed early in planning only if there are real and substantive issues requiring prevention and/or resolution. Over-customizing a process when there are insufficient issues to be dealt with may leave the participants wondering what they are there for.

The cases of Group C (Cases 6, 7, 5, 3, 4, 12, 11, 10, 14, 13 and 15) show that as issues become more complex, or when a conflict emerges, more-customized approaches to public consultation and participation have been adopted. While the use of customized approaches does not guarantee success (as seen in Case 15), there is a higher potential for reaching agreement. Group C cases also clearly indicate that when conflicts need to be resolved,

rather than prevented, more-customized processes are appropriate. This is especially true when there are many stakeholders involved in a conflict. Cases 14, 13 and 15 show that conflicts with multiple stakeholders need highly customized approaches.

Group D (Case 2) was identified because of the unique characteristics of the case. In this case, the local OMNR was limited in the processes it could use to resolve the white pine harvesting conflict because of the work of the provincial Old Growth Policy Advisory Committee. A highly customized approach for resolving the conflict could have been attempted, but this might have been seen as undermining the work of the Advisory Committee. This case shows that under some circumstances it is imprudent to implement highly customized processes because of initiatives at higher levels of decision-making.

Group E (Case 9) represents how not to deal with a conflict. Such cases are best described as "too little too late" and often end up in some form of civil disobedience. When conflicts reach this state, two options seem warranted for achieving resolution. One is to initiate and implement a highly customized process of conflict resolution. The second is to seek a decision through some political or legal process such as a formal EA. Every attempt should be made to prevent conflicts from reaching this state.

CHARACTERISTICS OF CONFLICT RESOLUTION PROCESSES

Below, the characteristics, pros and cons of conflict resolution/prevention processes used in the cases are described. The descriptions are based on observations and inferences drawn from, and discussed in, previous sections and literature. The classification of processes follows that outlined earlier.

Public Consultation

Public involvement programs have become a regular feature of governmental decision making (Conflict Clinic 1991). The objectives of public consultation processes are primarily conflict prevention. The process followed is usually clearly defined and formal with specific and limited timeframes, e.g. Timber Management Planning Manual for Crown Lands in Ontario (OMNR 1986a). The agency implementing or sponsoring the process, such as a planning team, retains decision-making authority. Formalized public consultation processes produce an overwhelming amount of information for the public to absorb and understand. Because the public does not help design the process, public consultation is often seen as being agency-run and impersonal.

Public consultation processes are relatively inexpensive in the short term with reasonable potential for preventing conflicts. However, such processes are often viewed as being reactive, i.e. collecting public input on proposed alternatives as opposed to proactive

processes which would use public input to help develop proposals. Due to the volume and method of presenting information, there is limited opportunity for public education and low potential for resolving existing conflicts.

Committee Structures

The objective of committees is conflict prevention and/or resolution and are most effective when the status of conflict is weak to medium. Committee processes are usually created as ad-hoc or standing. Often, ad-hoc committees become standing to monitor implementation and address future issues or be given new tasks after an initial mandate has been completed. Committees act in a range of advisory capacities, and occasionally have decision-making authority. The initiating or implementing agency has the ability to determine the authority of the committee as well as membership, either directly (members selected) or indirectly (stakeholder groups asked to provide a representative). Usually, committees work with a natural resource planning team and operate by consensus-based negotiation or voting.

Committee structures provide an opportunity for stakeholders to inform and participate in the decision-making process. In addition, committees may enable members to design and share in decision-making. Because of these possibilities, committees offer a strong opportunity for stakeholder education and creative problem-solving, resulting in a high potential for conflict prevention/resolution. If a committee is given decision-making authority, it could have a strong sense of mission and purpose.

A disadvantage of using a committee is that the process may take longer than traditional planning processes. In addition, short-term costs may be higher. However, an extended planning horizon and increased short-term costs may be minor compared to the long-term expense and aggravation of prolonged conflict.

The decision to give a committee decision-making authority must be given much consideration. On one hand, if a committee is given such authority, there is the possibility that decisions contrary to the broader public interest are made. On the other hand, if a committee is given an advisory mandate, members could become disillusioned or frustrated with feelings of tokenism.

Two Canadian authors, Filyk and Côté (1992), have proposed the following list of functions that advisory groups can serve:

DECISION-MAKING FUNCTIONS

- Encourage co-ordination
- Find common ground between competing interests; conflict resolution
- Critique existing policy
- Provide new ideas
- Provide independent and alternative opinions
- Perform special studies

CITIZEN PARTICIPATION FUNCTIONS

- Education of the public and policy interpretation
- Public participation
- Representation of policy interests
- Diffusion of responsibility
- Democratization of the bureaucracy
- Policy legitimization

POLITICAL FUNCTIONS

- Serve to test public reaction to policies
- Provide a forum for expression of public opinion
- Force controversial issues into an objective area
- Placate opposition by involving potential expert critics in the decision process
- Provide publicity and support for programs
- Be used for persuasion
- Provide a symbolic response to problems
- Give a false or misleading impression of addressing problems; known as "window dressing"
- Delay action
- Serve as patronage instruments

Clearly, some of the political functions are of suspicious merit. Regardless, it is important for prospective committee members to examine all the functions, both declared and unsaid.

It is equally important to examine whether the committee structure will lead to a fair sharing of decision-making power. Committees which are given at least some degree of real decision-making authority are generally well-balanced forums.

Unassisted Negotiation

The objective of an unassisted negotiation is normally to resolve conflict. The status of conflict is usually medium to strong and the negotiation process likely ad hoc, i.e. addressing a defined set of issues. The negotiation may involve a wide range and number of parties or only two. Agencies with decision-making authority (e.g. a government ministry) may be a party to the negotiation or simply an observer. The process of negotiation implies that the decision-making authority is shared and that agreements reached will be used as decisions.

An advantage of a negotiation process is that it enables existing and/or potential conflicts to be addressed before reaching a critical level. In addition, negotiation processes offer a high potential for stakeholder education and achieving win/win solutions. This is particularly true in local or site-specific situations. Because of the flexibility in the design of a negotiation, the costs of the process may be low. Unlike public consultation and committee processes, negotiation may not require formal meetings of the parties. Communication between participants can readily take place via telephone, facsimile, mail, etc. This is especially true if the status of conflict is medium or less and only a few parties are involved.

Potential disadvantages of negotiation processes focus on the preoccupation with, or disregard for, process design and implementation. In the former, parties become so involved with process protocol (e.g. groundrules, decision-making authority and process, number and affiliation of participants, agenda, etc.) that the negotiation becomes one of details of process rather than issues of substance. In the latter, an effective and efficient negotiation process may be lacking. As a result, much time is wasted by the participants discussing irrelevant topics, re-visiting resolved issues or working independently. Clearly, both the former and the latter can unduly prolong the negotiation process. A balanced approach to process design and implementation is necessary for an effective, efficient and timely negotiation.

Mediation / Facilitation (Assisted Negotiation)

Full and partial mediation/facilitation are negotiations which are assisted by a mediator or facilitator (B.C. Roundtable on the Environment and the Economy 1991). Both full and partial are discussed as a single process in this section because differences between full and partial deal more with the amount of time a facilitator or mediator spends with the parties than with the process itself. In both full and partial mediation/facilitation, the roles of the participants are essentially the same. Often, factors external to the conflict such as cost and/or availability of a mediator/facilitator determine whether a process is partial or full mediation/facilitation.

The objective of facilitation/mediation is primarily conflict resolution with an underlying purpose of preventing future conflict. The status of conflict is usually medium to strong and often the conflict has been long-standing, deeply rooted and its resolution or continuation will have broad implications for those involved. A mediator/facilitator (a neutral third party) is selected either by the implementing agency or by the participants. The mediator/facilitator works both for and with the participants in identifying necessary stakeholders, building a process, establishing the substance, and building agreements. Mediation/facilitation usually works on consensus-based decision-making and, like negotiations, agreements reached will likely be used as decisions. Similar to negotiations, a mediation/facilitation process is usually ad hoc, convened to address a defined set of issues. Like a committee, parties to a mediation/facilitation may remain in place to monitor implementation of an agreement.

Mediation/facilitation offers strong opportunities for both stakeholder education and creative solutions. The use of a mediator/facilitator helps ensure that the process stays focused and on track. In a partial mediation/facilitation, there is a danger that the process could break down in the absence of the mediator/facilitator. This is especially true if parties are new to this type of process.

The short-term costs of using mediation/facilitation in terms of time and money are greater than traditional planning processes. However, given the opportunity for stakeholder education and high possibility of reaching agreement, the short-term costs could far outweigh the costs and implications of an on-going unresolved conflict.

Interpretation of Process Characteristics

The process descriptions above have gone from specific to general. Because public consultation processes traditionally used in natural-resource decision-making are specific and well defined, it is possible to define their characteristics accordingly. In contrast, mediation/facilitation process characteristics are unique for each situation and therefore can only be defined in general terms. Processes between committee structures and unassisted negotiations have both specific and general characteristics.

Whether the characteristics of a process can be defined as general, specific, or both, gives little direct indication as to its effectiveness in preventing and/or resolving conflict because

the effectiveness of a process depends on the context of the conflict to which it is being applied. However, general or specific characteristics of a process could indicate the flexibility or adaptability of that process. The more specific the characteristics of a process, the more regimented the process is and less open to modification and/or customization. The result is a planning process where public consultation/participation is controlled and limited. This is the status quo of traditional natural-resource decision-making. On the other hand, the more general the characteristics of a process are, the more suited it is for modification and/or customization. The result is a planning process where public consultation/participation mechanisms are flexible and can be altered as necessary. Therefore, planning processes which allow for increasing levels of public consultation/participation can only be defined in increasingly general terms. This in turn suggests that some form of a continuum exists which describes decision-making processes through increasing levels and quality of public participation.

Figure 5.3 shows a continuum of the level and quality of public participation in natural-resource planning (Johnson and Duinker 1993). The objectives of the diagram are two-fold: (a) to show the characteristics of two distinctly different decision-making approaches; and (b) to show which aspects of planning the public could be involved in. With each shift to the right on the continuum, the level and quality of public participation will increase. Each shift to the right also represents a shift in the inability to define specific process characteristics. Processes at the left end of the continuum are usually very specific in how citizens can "Inform the Process" because this is the only role for citizens. As processes shift to the

right, characteristics of the process can only be defined in increasingly general terms because the role of citizens in the process increases. The greater the role for citizens, the more the process characteristics become situation-dependent.

CHARACTERISTICS OF THE PROCESS

-specific
-authoritative
-adversarial
-administrative
-technocratic

-general
-shared
-accommodative
-consensus-seeking
-problem-solving

**INCREASING LEVEL / QUALITY OF PUBLIC PARTICIPATION
(Roles For Citizens)**

Inform the process	Inform the process	Inform the process	Inform the process
	Participate in the process	Participate in the process	Participate in the process
		Design the process	Design the process
			Share in decision-making

Figure 5.3. A continuum of level/quality of citizen participation in natural-resource planning.

ASSESSING EFFECTIVENESS AND EFFICIENCY OF PROCESSES

The objective of this research was to examine the effectiveness of a variety of natural resource conflict prevention/prevention processes. The emphasis was on studying the processes in general terms rather than making judgements on the effectiveness of specific cases. In addition, it has been possible given the data collected and the style of investigation made here to draw inferences about process efficiency. If effectiveness means meeting objectives, efficiency means doing so with a minimum of resources. Process design for effectiveness requires sufficient process, whereas process design for efficiency requires only necessary process. Necessary and sufficient processes are not only difficult to identify; they may also provide no insurance for process failure or success.

Process Effectiveness

The effectiveness of a process for conflict prevention/resolution is appropriately gauged against the objectives set for the process. Such objectives will be unique to each process, but a common set of objectives can be framed. Thus, most conflict prevention/resolution processes aim to:

1. avoid costly and time-consuming arbitration processes such as formal environmental assessment hearings or litigation;
2. bring about more amicable discussions and relationships among parties;
3. help parties develop mutual understandings of values, relationships with natural resources, and the dynamics of natural resource systems;

4. help parties better understand the range of alternative resource-management strategies open to them;
5. help parties reject resource-management alternatives that will exacerbate future conflict; and, ultimately
6. find an agreeable-to-all, lasting solution to the dispute.

Given this array of possible objectives, each conflict prevention/resolution process will have some degree of effectiveness. It is unwise to use the last objective listed - i.e., reaching agreement - as the only criterion of effectiveness. This would deny the very real possibility that some processes can do much good even if an agreement is not reached.

For a conflict prevention and/or resolution process to be effective, it must account for and accommodate characteristics of conflict such as source and type of conflict. This is important because the characteristics of a conflict determine much of the substance of the conflict. If a process is used which is unable to address the conflict substance adequately, it is unlikely to be fully effective. Just as a timber management plan must consider the characteristics of a forest to be effective, so too must conflict prevention/resolution processes consider conflict characteristics. Here lies the major flaw in the effectiveness of traditional natural resource planning processes - not only do the processes give no consideration to conflict characteristics, but they offer little flexibility in preventing or resolving conflict through process modification. As a result, natural resource conflicts in the province have increased in number, variety and complexity.

Shifts towards the right on the continuum in Figure 5.3 represent movements towards processes which are more flexible and accommodating of conflict characteristics and therefore tend to be more effective. Manring's (1993) summary of the U.S. Forest Service's transition is inevitable in Ontario:

The Forest Service, like many natural resource agencies, is undergoing a cultural transition; these cultural changes already in progress should facilitate the successful implementation of a dispute resolution system within the agency. The Forest Service's stated mission, "Caring for the Land and Serving the People", is taking on new meaning. "Serving the People" once meant making professional resource management decisions for the public. As professional land managers, Forest Service officials knew what was best for the land and decided what was in the public interest. Increasingly, "Serving the People" is coming to mean making decisions with the public. Making decisions "with the public" implies that representative members of the public define their own management values and objectives.

As discussed, the effectiveness of a planning process is reflected partly in its ability to be modified to prevent and/or resolve conflict, should it arise. The modifications must enable various levels and types of public participation in order to account for conflict characteristics. In general, the more flexible (i.e. able to be modified), the more effective the process. The effectiveness (i.e. flexibility) of a process can be estimated by looking at how the process characteristics and roles for citizens can be described. Specific definitions of limited roles for citizens are characteristic of inflexible processes. General definitions with expanded roles for citizens are characteristic of flexible processes. Filyk and Côté (1992) outlined the benefits of enhanced public participation processes:

In the complex world in which public decisions are made, there will always be a need for people with substantive and impartial expertise to participate in the public process. They bring valuable insights and criticism on the long- and short-term effects of policy proposals, make credible predictions, and offer alternative viewpoints from representative communities, all at relatively small expense.

Process Efficiency

The cases studied and their placement in Figure 5.2 indicate that the efficiency (as well as effectiveness, to some degree) of a conflict prevention/resolution process can be estimated by how well suited the process is to the conflict in question. Effective processes must take into account and be shaped by the significant characteristics of the conflict, and need at least sufficient customization to meet basic conflict-resolution objectives. Efficient prevention/resolution processes limit customization to the minimum required to be effective. Risk of failure of some elements of process might lead designers to sacrifice some efficiency by "overcustomizing" to raise the chances of being effective against all process objectives.

Process Insurance

The "process insurance" concept is illustrated in Figure 5.4. Processes which fall into the upper left corner of the figure might be termed "excessive" - chances of success are high because of conflict characteristics, but a great deal of process customization is implemented anyway. Processes which fall into the middle left side of Figure 5.4 tend to be efficient with a high chance of success. These processes take into account conflict characteristics and are appropriately customized. Processes which fall into the middle right side of Figure 5.4 take into account the conflict characteristics but may not be appropriately customized to deal with them. As a result, these processes may be efficient, but effectiveness is unsure and there is significant risk of failure. Processes in the lower right side of Figure 5.4 are best

described as "too little, too late". These processes have little customization and do not take into account conflict characteristics, a sure recipe for failure given the strength and complexity of such conflicts.

PROCESS EFFECTIVENESS

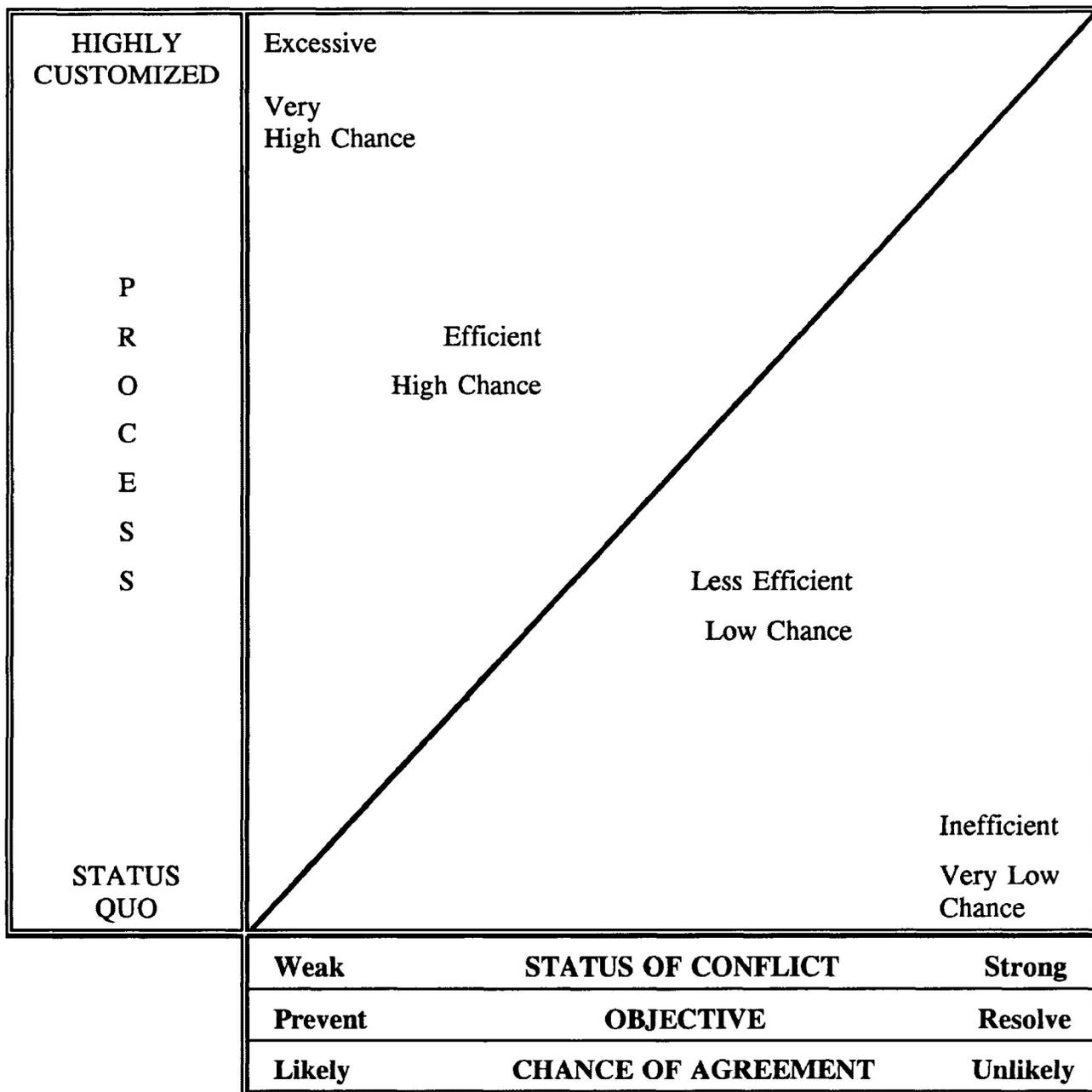


Figure 5.4. An assessment of the relative effectiveness of conflict prevention/resolution processes.

In summary, as the status and complexity of conflict increases, the effectiveness of the decision-making process must also increase. Increased effectiveness in decision-making can be achieved largely through an increased level and quality of public consultation/participation as illustrated in Figure 5.3. An increased level and quality of public consultation/participation is achieved through a modification of the decision-making process. Principle-based processes are more open to modification than rule-based processes.

CHAPTER 6: CONCLUSIONS

In conclusion, my observations and analyses show that existing natural resource management planning processes (for example the TMP process) are relatively ineffective in preventing and/or resolving natural resource use and management disputes for three reasons:

- 1) The processes are reactive and authoritarian rather than proactive and democratic.
- 2) The processes give little if any consideration to conflict characteristics such as source and type of conflict.
- 3) The processes offer little flexibility for process modifications which would allow for various levels of public consultation/participation, essential for effective conflict prevention/resolution.

This ineffectiveness, combined with significant societal changes, has resulted in an increase in the number and complexity of natural resource management and use conflicts.

Natural resource conflicts in Ontario have escalated over the past thirty years. In addition, the sources of conflict (access, conflicting uses, etc.) have remained more or less the same. Despite a thirty-year-old suggestion that conflicts be "met with intelligence and positive action instead of negative measures and restrictive attitudes" (Rousseau 1963), forest stakeholders remain today entrenched in territorial conflicts. Perhaps this will change if the numerous government initiatives of recent years finally catch up with the needs and demands of an ever-changing society. In the meantime, forest stakeholders should become familiar

with and willingly participate in the numerous alternative dispute resolution mechanisms which can be implemented. Such processes can occur at the local level and changes to provincial policies or legislation are not required.

Because the mechanisms used to prevent and resolve natural resource and environment conflict deal primarily with the interactions of stakeholders, it was impossible to analyze the effectiveness of resolution mechanisms through quantitative analysis. In addition, because well developed or widely accepted methods for the analysis of such cases do not exist, five approaches for the analysis were developed. The process spectrum identified five distinct processes for conflict prevention and resolution: public consultation, unassisted committees, unassisted negotiations and partial and full mediation/facilitation. The sources of conflict clearly showed that for the cases studied, there is a great deal of variability in the influence of the sources of conflict. Perhaps this is true of most natural resource conflicts in Ontario because of the number and variety of stakeholders involved.

The approach characteristics identified five traits which can have a strong influence on the functioning of a process: initiation of the process, implementation of the process, objective of the process, type of process and authority of the process. Each of these traits can be adjusted by process designers or stakeholders to make the process more effective. The conflict versus process framework was useful in identifying the relationship between conflict characteristics and process design. The general finding was that, for conflicts which show one or all of intense status of conflict, low chance of agreement or a process objective of

resolution, customized processes will likely be necessary for successful prevention and/or resolution.

Lastly, the characteristics of conflict resolution processes showed that the more a conflict resolution process is defined in specific terms, the more inflexible it is to modifications which may be necessary to account for factors such as the conflict characteristics or various levels of public consultation/participation. This relationship was described best through Figures 5.3 and 5.4.

Through analysis of fifteen cases, I have shown that effective processes for preventing and/or resolving natural resource conflicts exist and have been successfully applied in Ontario. The common element of these processes is the use of consensus-based decision-making by natural resource authorities, managers and users. In such processes, stakeholders are given multiple meaningful roles in informing, participating in, and designing the decision-making processes. In some cases, stakeholders are given decision-making authority. The consensus-based processes discussed (committees, negotiation and facilitation/mediation) can be modified in numerous ways to suit the needs and requirements of the situation and the participants.

The more marginalized a key stakeholder feels, the more potential there is for acts of civil disobedience or politically motivated decisions. There is always a risk when groups are marginalized, no matter how small or weak they may seem. Groups that refuse to

participate may be marginalized out of resource decision-making. If genuine attempts are made to involve all parties in decision-making processes and parties still refuse to participate, they do so at their own peril. It is likely that those who refuse to participate will be looked upon unfavourably if an arbitration is required. It is in the best interest of all parties to make at least one genuine effort to participate in consensus-based decision-making processes.

The earlier that conflict prevention/resolution processes are initiated and implemented, the lower the need for significant process modification and greater the chance for success. Also, groups need to have substantive issues to deal with or they will feel they are wasting their time.

Unfortunately, use of customized public consultation and participation processes in natural resource management planning is relatively new, and there may be reluctance by some natural resource authorities, managers and users to adopt such processes. Hopefully this will change as people become experienced with such processes and successes are communicated.

FUTURE RESEARCH

This research has led to the question of the role of executive authority in natural-resource management decision-making. The cases studied represent examples of various levels and forms of shared decision-making. Future research should address the question of the role of executive authority when it comes to making difficult, politically sensitive decisions.

Specifically, are elected officials and public employees delaying difficult decisions under the guise of more power to the public?

An important area of future study is the development of natural-resource planning processes which accommodate varying levels of public consultation/participation with respect to conflict characteristics. A "cookbook" approach would not be appropriate because each process must be unique to the conflict for which it is being applied. Instead, future research should focus on the variety of mechanisms available to natural resource managers and decision-makers. Research of this nature should continue to focus on the effectiveness of processes.

An additional area of research is in communicating and documenting the details of effective and ineffective processes of conflict prevention and/or resolution. As noted earlier, there is a weakness in communicating successes and failures between stakeholders. The collection and analysis of additional natural resource conflict cases could only add to the existing, although limited, body of knowledge.

Decision-support tools (such as geographic information systems) are readily available to most natural resource managers and decision-makers. However, little research has been done on their abilities as conflict prevention/resolution tools. Such research could greatly complement process analysis.

A final area of research would be the investigation of conflict prevention/resolution mechanisms which have been, or are, being used in different geographic areas (e.g. southern Ontario, other provinces), and for natural resources not studied in this research (e.g. minerals, parks).

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APPENDICES

APPENDIX I: OMNR Letter of Introduction

APPENDIX II: Data Collection Questionnaire

APPENDIX III: Case Numbers and Titles

APPENDIX IV: Detailed Case Descriptions

**APPENDIX V: Beyond Dispute: Collaborative Approaches to Resolving Natural
Resource and Environmental Conflicts**

APPENDIX I

MNR LETTER OF INTRODUCTION

FEED FAX THIS END

FAX	
To:	<u>Dr. Duinker</u>
Dept.:	_____
Fax No.:	<u>343-8116</u>
No. of Pages:	<u>1</u>
From:	<u>CAM CLARK - MNR</u>
Date:	<u>April 30/91</u>
Company:	_____
Fax No.:	_____
Comments:	_____
Post-it	fax pad 7903E

April 29, 1991

MEMORANDUM TO:

- Regional Directors - Boreal West
- Boreal East
- Great Lakes
- Southern

Director, Forest Resources
 Director, Aviation, Flood & Fire Management
 Director, Integrated Operations

RE: Study of Conflict Prevention and Resolution Mechanisms

This memo is to inform you that Dr. Peter Duinker, Lakehead University's Chair of Forest Management and Policy, is undertaking a study of mechanisms for conflict prevention and resolution in natural resources management in Ontario. The study has been funded by the "Fund for Dispute Resolution", an Ontario-based fund set up a year or so ago to fund a wide variety of academic and applied topics.

The objective of Dr. Duinker's study is to characterize a wide variety of attempts, both recent and current, to prevent or resolve conflicts in resource management, aiming ultimately at development of a "guide for conflict resolution" that would be useful to all resource stakeholders, especially in Northern Ontario.

Dr. Duinker recognizes that much of the knowledge about resources conflicts and mechanisms used to address them resided with personnel of MNR. Therefore he and his graduate student, Peter Johnson, would like to make contact with a wide range of MNR staff as they go about collecting data on various mechanisms used by MNR to address conflict.

MNR in principle welcomes the study, and would like to offer Dr. Duinker and Mr. Johnson full cooperation in discussing mechanisms of conflict prevention and resolution. For your information, Cam Clark is a member of Dr. Duinker's Chair Advisory group, Bill Therriault is a member of the Advisory Group for the conflict study, and Janet Skelton is a member of Peter Johnson's graduate advisory committee. You may contact any of these people to discuss the study. In addition, Dr. Duinker welcomes discussions about the study and encourages anyone to contact him for a copy of a brief describing the project. Mr. Johnson will be travelling throughout Ontario over the next several months visiting practitioners and collecting data, and you may expect a call from him to arrange a visit.

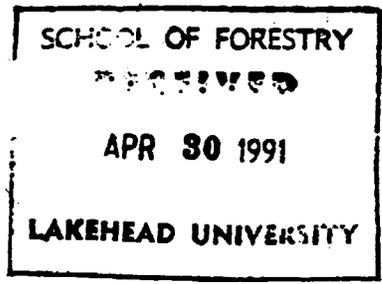
ORIGINAL SIGNED BY
 R.A. RILEY

R. A. Riley
 Assistant Deputy Minister
 Operations

CDC.law

c.c. D. Balsillie
 L. Douglas

b.c.c. Dr. Duinker
 Bill Therriault
 Janet Skelton



APPENDIX II

DATA COLLECTION QUESTIONNAIRE

2. GROUP AND GENERAL PROCESS

STANDING____ vs AD HOC____ (Informal____ Formal____)

Who is the Chairperson?_____

Who is in charge of the Secretariat?

Name_____

Title_____

Address_____

Phone #_____ Fax #_____

Affiliation_____

Duration of Position_____

Who instigated the group?_____

When was the group created?_____

What is the group's mandate?_____

Who determined the membership and how?_____

What is the role of each member?_____

Who has decision-making authority? _____

What is the group's authority/responsibility? _____

What is the time and space authority of the group? _____

Were there any written terms of reference? _____

Does the group report to a higher authority (either through interim or final reports)? _____

How often does the group meet? _____

What types of conflicts are addressed? _____

What is the group's record with respect to success and failure? _____

3. CASE APPLICATION:

Conflict title? _____

What was the conflict? _____

Where was the conflict? _____

What were the natural resources involved? _____

At what stage in the conflict did the group begin to work? _____

Who were the conflicting parties? _____

What were the positions of the parties in the beginning? _____

What was/is the process used for resolution? _____

What was the outcome of the conflict? _____

Was a formal agreement reached? _____

How was the agreement implemented? _____

Has there been any follow-up on the agreement or implementation?

Additional Comments _____

APPENDIX III

CASE NUMBERS AND TITLES

CASE NUMBERS AND TITLES

CASE 1: Public Consultation During Preparation of a Timber Management Plan

CASE 2: Sapawe Crown Management Unit

CASE 3: Public Advisory Committee for the Mallette Timber Management Plan

CASE 4: Trout Lake Co-management Group

CASE 5: Lac Seul Forest Timber Management Stakeholders Committee

CASE 6: Terrace Bay Stakeholders Committee

CASE 7: Sudbury District Advisory Committee

CASE 8: Lac Des Mille Lacs Lake Management Plan

CASE 9: Wild Rice

CASE 10: Brightsand Forest

CASE 11: Seine River FMA

CASE 12: Wabigoon Forest

CASE 13: Magpie Forest Co-Management Committee

CASE 14: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee

CASE 15: Nagagami Forest, Granite Hill/Obakamiga Lakes

APPENDIX IV

DETAILED CASE DESCRIPTIONS

CASE NUMBER: 1

TITLE: Public Consultation During Preparation of a Timber Management Plan (OMNR 1986a)

3.0 PUBLIC CONSULTATION

Public consultation is an important component of the planning process for activities on Crown Land. The passage of the Environmental Assessment Act, 1975, and its binding application to the Crown has reinforced the requirement that the planning process provide opportunities for public consultation. The planning process for timber management on Crown Lands must provide the opportunity for the participation of individuals, interest groups, and relevant government ministries or agencies.

The planning process for a Timber Management Plan provides formal opportunities for public consultation by:

- issuing an invitation at the start of the planning process to relevant government ministries or agencies, interest groups, and interested individuals to participate in its preparation;
- conducting a one-day Information Centre presenting, for review, the proposed operations in normal operating areas and the alternatives (including the preferred alternative) in areas of concern prior to the production of a draft plan; and
- providing a thirty-day period for public review of the draft plan; and

issuing a public notice upon approval of the plan advising all interested participants that the approved plan is available for inspection.

The schedule for the periods allowed for public consultation is illustrated in Figure 2.1 (of OMNR 1986a).

For Timber Management Plans produced for Crown management units, the OMNR will be responsible for all aspects of public consultation. For company-produced plans on company management units or FMA's, the OMNR will assume the local role to ensure that all formal opportunities for public consultation are provided. This role will include the issuance of public notices and provision of facilities for the Information Centre or plan review. The company, in turn, will be responsible for ensuring that all comments and submissions from external participants are considered in the preparation of the plan and that the documentation of public consultation is included in the supplementary documentation as required.

3.1 Invitation to Participate

As soon as a schedule for the preparation of the Timber Management Plan has been determined, the district manager will issue a public notice announcing the commencement of the preparation of the Timber Management Plan for the company management unit or FMA forest. Relevant government ministries and agencies, interest groups, and individuals with an interest in timber management planning for the area are invited to participate in its preparation.

This public notice will be in the form of direct written invitations to local and regional offices of relevant government ministries and agencies, interest groups and individuals with a known interest in timber management planning for the forest management unit, and paid public advertisements in the local media advertising the public of the opportunity to become involved. Verbal notice may also be appropriate in specific circumstances.

The public notice will include a map of the management forest, the planning schedule, and an outline of the subject matter to be covered by the plan. It will invite input regarding concerns which the government ministries and agencies, interest groups, and individuals feel must be addressed in the plan. A period of thirty days is allotted for the public to respond to the invitation to participate.

3.2 Information Centre

Upon the completion of an internal review, the district manager will issue a public notice inviting all interested participants to an Information Centre to review and comment on alternatives, developments, and preliminary proposals in the timber management planning exercise to date. The public notice will be in the form of direct written invitations to all who received written notices in the initial invitation to participate and paid public advertisements in the local media advising the public of the opportunity to review progress to date. Verbal notice may also be appropriate in specific circumstances.

The Information Centre is a one-day opportunity for all interested parties to view

presentations or displays which outline the proposed operations in normal operating areas or alternatives in areas of concern (including the preferred alternative) prior to the production of a draft plan. It provides an opportunity for public comments on developments in the timber management planning exercise before key decisions are made. The principal information which must be presented at the Information Centre is:

the proposed forestry operations in areas which meet the criteria for allocation or are proposed for allocation;

the alternative locations of the broad corridors for each primary forest-access road which is required for the twenty-year term of the Timber Management Plan and the preferred or most acceptable alternative;

the more precise alternative locations for each primary and secondary forest-access road which is required for the first five-year term of the plan and the preferred or most acceptable alternative;

the identified areas of concern; and

the alternative prescriptions for operations within areas of concern and the preferred or most acceptable alternative.

All members of the OMNR planning team, the district manager, and, for company-prepared plans, company personnel will be present at the Information Centre to explain developments in the timber management planning exercise to date and to respond to any inquiries.

A period of thirty days after the date of the Information Centre is allotted for the public to

present submissions regarding concerns with the preliminary proposals for the draft Timber Management Plan. During this time, the displays and information materials will continue to be available for public review at the OMNR district office.

3.3 Review of Draft Plan

After the OMNR internal review of the draft plan and supplementary documentation has been completed, the district manager will issue a public notice inviting all interested participants to review the draft Timber Management Plan, the supplementary documentation, and the OMNR's preliminary list of required alterations. This review will take place prior to approval of the draft plan.

This public notice will be in the form of direct written invitations to all respondents to the initial invitation to participate and visitors to the review Information Centre, and paid advertisements in the local media advising the public of the opportunity to review the draft Timber Management Plan, the supplementary documentation, and the OMNR's preliminary list of required alterations. Verbal notice may also be appropriate in specific circumstances.

The review will enable the public:

- to note how their earlier submissions and comments regarding concerns with timber management proposals have been considered in the preparation of the draft plan;

to comment on the key decisions which have been made; and
to study the OMNR's preliminary list of required alterations.

A period of thirty days after the date of the public notice is allotted for the public to review the draft Timber Management Plan, with the supplementary documentation and required alterations list, at the OMNR district office, and to present submissions regarding alterations.

3.4 Inspection of Approved Plan

Upon approval of the Timber Management Plan the district manager will issue a public notice advising all participants that the approved plan is available for inspection. The Timber Management Plan must be available for inspection at the OMNR district office. The public notice will be in the form of direct written notices to all previously identified participants and all parties and individuals potentially affected by the timber management operations which will be carried out during the term of the approved plan. Paid advertisements in the local media advising the public of the opportunity for inspection of the approved plan will also be issued. Verbal notice may also be appropriate in specific circumstances.

The public notice must also clearly indicate that this represents the final opportunity to request a "bump-up" of the whole plan, or any part of the plan, to an individual environmental-assessment status. Following the public notice, a period of thirty days is

allotted for final consideration of such a request.

The approved Timber Management Plan will remain available for public inspection at the OMNR district office at any time during its five-year term.

2.9 Plan Renewal and Amendment

If the requested amendment is minor, the district manager may approve the amendment and advise the regional director and the Director, Timber Sales Branch, Forest Resources Group, Main Office.

If, however, the requested amendment is major, the district manager must, together with the regional director, establish the requirements for internal review and public consultation concerning the requested amendment.

The requirements for internal review and public consultation will vary depending upon the nature of the amendment requested. The minimum opportunities for public consultation which must be provided for a major amendment include those offered at an Information Centre and an inspection period for the approved amendment. These will be conducted in a similar manner, with the same public-notice requirements, as the corresponding public-consultation opportunities provided in the production of a new plan.

CASE NUMBER: 2**CASE NAME:** Sapawe Crown Management Unit**SUBJECT OF CASE:**

the concern over the preservation of old growth white pine (Pw)
 the old growth issue has made its way west from Temagami
 at the time the Sapawe CMU TMP was being developed, the park plan for the Turtle River White Otter Park was also being prepared
 Inwood Forest Products (of Upsala, Ontario) recently acquired Foothills Forest Products (of Atikokan, Ontario) and both mills depended on Pw allocation from the Sapawe CMU
 during the park planning process an area of regional and possibly provincial significance was discovered, this was a peninsula on Durrie lake that contained Pw stands which had been allocated to Inwood
 until the park plan was approved there could be no access to this Pw which was no big concern to Inwood as they had other stands to tie them over
 both Inwood and Foothills had allocations of 14,000 cu.m. of Pw per year out of the Sapawe CMU
 Inwood asked OMNR to increase allocation from 14,000 to 21,000 cu.m. to help them get over the recession and the additional debt of acquiring Foothills
 the increase was granted but with the provision that the increase would only occur in good Pw market years and in poor market years the cut would go back to the 14,000 cu. m.
 in 1989 Foothills mill closed and their allocation switched to contingency
 the Pw near Durrie Lake was allocated for 1989 but OMNR had second thoughts and decided not to access, but there was no formal withdrawal
 as Inwood increased its allocation from 14,000 to 21,000 cu. m. (granted through an amendment) they began cutting summer access stands in winter and were running out of wood, especially wood for summer harvest
 in order to provide for more summer wood an amendment was prepared
 the amendment concentrated on Pw dominant stands, wanted to allocate as little area as possible
 this amendment was opportunity to:

- 1) allocate new stands
- 2) change to mixed stands as opposed to almost pure Pw stands
- 3) formally withdraw the controversial Durrie Lake stands
- 4) introduce new silvicultural ground rules which would include shelterwood management for Pw regeneration

MNR knew the amendment would be controversial so they advertised in the Atikokan and Thunder Bay newspapers
 notice clearly stated that the Pw allocation was going to be increased i.e. were not

trying hide the facts, take the conflict head on
 alot of local opposition to the amendment was received at the open house
 6 letters (all from one family) were received, did not have good understanding of the
 situation and basically only wanted to be controversial
 local environmentalists wanted a bump-up
 MNR received opposition from FON, CPAWS, and Wildlands League
 MNR prepared informative responses to all opposition, sent information about Pw,
 Pw silviculture, information on how the amendment would be good for the protection
 of new and old Pw
 MNR tried to stay as neutral as possible throughout process
 people who wanted more information were invited to come to Atikokan, visit the
 OMNR and walk the stands with the OMNR
 in 1990 OMNR Regional Forester put together working group of experts to look at
 Pw harvesting in the Region
 the group made recommendations which were implemented
 the group was re-convened to look at the Sapawe issue
 Atikokan OMNR also in touch with the Provincial Old Growth Policy Group in
 Sudbury who sent two reps (Ball, Lloyd, Grey, Anneis) to the Sapawe CMU to look
 at the forests from the air and on foot
 CMU Forester Paul Hosick of the opinion that the stands in question are borderline
 sites and trees, area not conducive to Pw management
 two major issues at stake:
 1) company going to run out of wood
 2) people who are opposed to any cutting of Pw
 has been one request for a formal EA on the amendment
 additional concern that blister-rust-resistant trees are being cut (this is a big rust area)
 and there will be no Pw planting stock available for several years
 MNR knew they had to change harvesting practices so now only trees that are
 merchantable are cut, cutters say they are losing one third of their volume
 MNR offering to mark stands for cutters in order to try and get more volume but
 there has been very little demand for this
 problems facing the Sapawe CMU - trying to keep the mill alive but at the same time
 trying not to be seen as short-circuiting the Old Growth Policy Advisory Committee
 by continuing to cut before the Committee's report is made
 the amendment was approved for harvesting in stands in which Pw was not the
 dominant working group
 harvesting in stands in which Pw is the dominant working has been stopped until the
 Old Growth Policy Advisory Committee has filed its report
 the request for a formal EA was denied by the MOE
 Inwood Forest Products has a tenuous wood supply and realizes it cannot rely only
 on Pw
 Inwood is now diversifying into the utilization of hardwood species

RESOLUTION vs. PREVENTION:

- both - resolving the Pw harvest issue, resolving the old growth issue and preventing the mill from shutting down

AD HOC vs. STANDING:

- n/a

TYPE OF GROUP:

- n/a

INSTIGATION OF GROUP:

- Atikokan OMNR

COMMITTEE CHAIR:

- n/a

MANDATE/TERMS OF REFERENCE:

- none formal, resolve the issue as best as possible

DECISION-MAKING:

- Regional OMNR as to acceptance or rejection of amendment

MNR STAFF:

- trying to remain neutral

MINUTES:

- n/a

FREQUENCY OF MEETINGS:

- n/a

COMPENSATION TO MEMBERS:

- n/a

LOCATION OF MEETINGS:

- n/a

DOCUMENTATION:

- notes from meeting with Paul Hosick
- Wildland News newsletter

CONTACT:

- Paul Hosick, Sapawe CMU Forester

CASE NUMBER: 3

CASE NAME: Public Advisory Committee for the Mallette Timber Management Plan

SUBJECT OF CASE:

- public advisory committee put together by OMNR and FMA holder Mallette for the development of Mallette TMP

RESOLUTION vs. PREVENTION:

- primarily prevention, preventing conflicts that could emerge in the plan and proposed operations
was effective in resolving one conflict, Baker Lake, whereby Mallette wanted to cut very close to its mill, near a housing development

AD HOC vs. STANDING:

- group was ad-hoc for the preparation of the TMP
after this group finished its mandate, a District Advisory Committee was created out of the members of this committee plus a few more stakeholders
this new committee is a standing committee which looks at District issues
District Committee just coming together, no Chair or Terms of Reference as of June 1992

TYPE OF GROUP:

- advisory group, reporting to the Planning Team

INSTIGATION OF GROUP:

- group initiated by the OMNR and Mallette, Mallette very nervous about using this approach
TMP planning team thought committee would be good approach because Timmins becoming very "green" and potential conflicts could be prevented

SELECTION OF GROUP MEMBERS

- MNR and Mallette had good idea of stakeholders and organizations which needed to be included
compiled a list and asked them to send a representative
the rationale behind appointments to the committee was to have all key stakeholders included but that the people selected would not be influenced by personal ties to issues
despite sending invitations to join the PAC to a number of stakeholders and organizations only 6 representatives came forward
Mallette also sent a representative bringing the PAC to 7
wanted local people without biases as opposed to "Toronto" people with a provincial view
said no to certain individuals because of their "politicalness" or if they were out of

the Timmins OMNR District

COMMITTEE CHAIR:

- Chair was a member of the Planning Team, this seemed to be satisfactory to the PAC members

MANDATE/TERMS OF REFERENCE:

- the PAC was not intended to replace the regular consultation process for TMP's but meant to enhance public input
terms of reference and mandate developed by the OMNR and Mallette
purpose of the PAC:
 - 1) ensure stakeholder's interests are communicated to the Planning Team
 - 2) communicate with respective stakeholders about the TMP
 - 3) promote the integration of the interests of all stakeholders

DECISION-MAKING:

- "PAC gives advice and recommendations on plan issues to the Planning Team and the DM, but does not have decision-making powers"

MNR STAFF:

- MNR staff and Planning Team used as resource people and as "teachers" to educate the PAC about resource issues, resource management and TM planning

MINUTES:

- no mention of formal minutes being taken, done primarily through input to the Planning Team
the PAC meetings worked with a rotating rapporteur

FREQUENCY OF MEETINGS:

- PAC met after Planning team meetings
met 7 times over a 15-month period, about once every two months depending on the issues and the progress of the Planning Team

COMPENSATION TO MEMBERS:

- no compensation at all, OMNR covered administrative costs

LOCATION OF MEETINGS:

- formal meetings in Timmins, informal meetings, tours, field trips etc. on location

DOCUMENTATION:

- notes from meeting with Bob Fleet, OMNR, FMS
- terms of reference from Mac Kilgour
evaluation report on the PAC by Karen Manol, University of Ottawa student

CONTACT:

- Mac Kilgour, Unit Forester, OMNR Timmins

NOTES:

- a lot of people in Timmins are interested in the PAC and the new District Committee, need to consider a form of rotating membership to keep people happy in addition to the PAC, Mallette, and if necessary the OMNR, went out to meet with concerned stakeholders

MNR prefers to let people sort out their own problems and if need be it will get involved

the Manol report was good as a planning tool for the District Committee

the OMNR and Planning Team spent much time explaining to the PAC how resource management and planning occurred, people had many misconceptions that needed to be cleared up (e.g. clear-cutting, monoculture forests, etc.)

explained to the PAC about DLUG's and SLUP's

took the PAC on a tour of Mallette's mill in Timmins and flew them over the Mallette forest

a key role of the PAC in the preparation of the TMP was to make recommendations to the Planning Team on ways to resolve issues from Manol's report:

it was recommended that the PAC's accomplishments be more visible to the general resource users

the majority of the PAC members felt that non-affected stakeholders i.e. out of District, would tend to bring forth very broad and generic perspectives and would find it difficult to concentrate on specific issues because of their lack of any direct stake in an outcome

the PAC was put in place 7 months after the pre-planning stage had begun; it was noted that the PAC could have been more effective in the identification of issues if it had been assembled earlier

the PAC meetings worked with a rotating rapporteur and some members felt this role was restricting with respect to the degree in which they were able to participate

PAC members felt the Planning Team needed to put more emphasis on showing the PAC how their input and how their recommendations influenced the preparation of the TMP

CASE NUMBER: 4

CASE NAME: Trout Lake Co-management Group

SUBJECT OF CASE:

- co-management committee developed by the OMNR Red Lake District to bring together a variety interests into a group that will cooperatively manage the fisheries resources in the most appropriate, efficient and equitable manner
- concerns were the preservation of the remote tourism fish-based industry and the pressure from local anglers to have access to the lake for recreational fishing
- timber access roads are getting close to the lakes in question and a 2km restricted access zone around Trout, Little Trout and Otter Lakes was put into effect which angered local residents
- concern over the fish populations, especially walleye and pike

RESOLUTION vs. PREVENTION:

- both, resolve existing concerns and prevent additional concerns from becoming conflicts
- also to prevent further decline of the fish population

AD HOC vs. STANDING:

- committee was ad-hoc with a 12-month mandate to file a report with the DM, Red Lake
- at the end of the 12 months the committee Chair and the DM will review the group's mandate and the need for continuation of the committee
- after the 12 mandate was done, the committee asked that it remain intact; the DM agreed and groups still operating

TYPE OF GROUP:

- co-management group, advisory capacity

INSTIGATION OF GROUP:

- instigated by the OMNR Red Lake in view of existing and potential conflicts regarding lake management and access

SELECTION OF GROUP MEMBERS:

- MNR identified lake users and stakeholders
- asked the groups to select one representative to sit on the committee
- baitfishermen, commercial fishermen and trappers were asked to name a representative from those persons working within the co-management area

COMMITTEE CHAIR:

- as outlined in the terms of reference an independent Chair was to be selected by the OMNR

MNR had a number of names, approached committee with the first name and he was agreed to by the committee

MNR selected the Chair because it knew the group would never be able to agree to one on its own

in the terms of reference there was a list of the responsibilities of the Chair, primarily administrative responsibilities

MANDATE/TERMS OF REFERENCE:

- terms of reference and mandate were developed by the OMNR; committee had opportunity to comment on it but it was accepted as presented
mandate: "The Trout Lake Co-management Group will identify management recommendations which will resolve the management issues related to the recreational fisheries within the co-management area. It is hoped that this co-management group will bring together the various interest groups and through discussion build consensus on how to manage the fisheries resources within the co-management area in a practical manner."
terms of reference also included; lengthy list of the group's responsibilities; list of guiding principles; management objectives; and management issues

DECISION-MAKING:

- it was the Chair's responsibility that a "voting process" for obtaining a group position on recommendations be decided by the co-management group
tried a voting process but it failed and went to consensus-based negotiations

MNR STAFF:

- OMNR and other Government Ministries were available as resource management advisors
an OMNR representative sat on the committee as a member

MINUTES:

- minutes of all meetings were kept by the group
- typing and distribution of minutes done by OMNR
minutes open to the public

FREQUENCY OF MEETINGS:

- meetings held at the discretion of the Chair, usually about once a month

COMPENSATION TO MEMBERS:

- administrative costs for meetings paid by the OMNR
reasonable expenses (meals, travel, accommodation) associated with the attendance of meetings paid for by OMNR

LOCATION OF MEETINGS:

- at discretion of the Chair, usually in Red Lake

DOCUMENTATION:

- notes from meeting with Mark Sobchuk, Area Supervisor, Red Lake OMNR
- terms of reference
- copy of NAN self government agreement

CONTACT:

- Mark Sobchuk, Area Supervisor, Red Lake OMNR

NOTES:

- Red Lake is still at the stage of flexibility of shifting resource allocations but this will soon change as the available area and resources continues to be allocated
- tourism vs. access biggest conflict in area
- first year of committee was year of growing pains
- group concentrated primarily on fishery issues
- in hindsight, OMNR should have taken a more stronger role
- committee was good in that it educated stakeholders but this was a long process, it was hard to get the group to agree on the data base and the situation that the fisheries was in
- first step was to get them to accept the data then they had to deal with the concept of sustainability
- next steps were to develop objectives then approaches for achieving objectives
- biggest concerns around catch rate and size of catch
- need to empower the committee to meet success and to keep them interested
- 13 members was too big to work with but they had to incorporate all interests, ideally would have liked a group of about 8 e.g. two angler groups with two different philosophies but both members of the OFAH, differences between outfitters, bear and moose hunt operations want roads while fish outfitters do not
- owner of local newspaper created much conflict within the community of Red Lake via his newspaper about the situation and how it was being handled
- newspaper owner does not like any level of government; he is very pro-community, pro tourism and wants all resources to be community run
- newspaper owner put a negative thrust on just about everything OMNR does
- people slowly not listening to newspaper owner as they find out the truth

CASE NUMBER: 5

CASE NAME: Lac Seul Forest Timber Management Stakeholders Committee

SUBJECT OF CASE:

- committee established under the OMNR proposed Terms and Conditions for the Class EA of Timber Management on Crown Lands established to assist OMNR during the preparation and implementation of the Lac Seul Forest TMP (FMA held by McKenzie Forest Products)

RESOLUTION vs. PREVENTION:

- prevention, used to advise the Sioux Lookout OMNR DM on identified or anticipated issues, and proposed actions to be taken to resolve the issues

AD HOC vs. STANDING:

- ad hoc, subject to recommendations from the group, it will disband at the completion of the first year of the TMP

TYPE OF GROUP:

- advisory, reporting to the Sioux Lookout OMNR DM

INSTIGATION OF GROUP:

- instigated by the Sioux Lookout OMNR, as one of the four pilot committees established by the OMNR's proposed Terms and Conditions for the Class EA of Timber Management on Crown Lands

SELECTION OF GROUP MEMBERS

- as outlined in the Background and Organizational Structure of the terms of reference "The committee shall be organized by the DM and made up of a reasonable number of local citizens representing a range and balance of interests. Where stakeholders have a representative organization, that organization will be asked to nominate a member and an alternate for the committee. Where there are several organizations representing a single stakeholder interest, those organizations will be asked to nominate one member and an alternate to represent the organizations. Where there is no formal organization representing a stakeholder interest, a committee member and an alternate will be nominated by the DM." members could be appointed and/or re-appointed at the discretion of the DM in consultation with the participating organizations native groups wanted to be kept informed of the committee's progress but refused to attend due to attending being a threat to their sovereignty

COMMITTEE CHAIR:

- Chair was elected by the committee for a term determined by the committee two names were put forth by the committee but they did not want to run against each

other so they decided to both be Co-chairs
committee voted and accepted

MANDATE/TERMS OF REFERENCE:

- purpose and terms of reference developed by the OMNR in response to EA guidelines prior to start of committee
potential members were given copy to purpose and terms of reference before joining committee
organizational and procedural rules developed by the committee

DECISION-MAKING:

- tried to work by consensus
as outlined in the administration section of the terms of reference "where the committee is required to provide a written recommendation to the DM, a majority of the appointed committee members shall be required to agree to that recommendation. Majority and minority opinions shall be recorded for the advice of the DM, who has the responsibility to consider both majority and minority opinions, and make a decision having regard to local and provincial resource management objectives and any pre-existing obligations."
mechanism in place whereby the committee can appeal to the DM regarding a conflict during the preparation or implementation of the TMP
also in place, a mechanism for the committee to appeal to the Regional Director if they are not satisfied with the DM's decision

MNR STAFF:

- detailed outline as to what the OMNR through the DM would provide to the committee
generally, OMNR and TMP Planning Team to provide all resources necessary to the committee
first two meetings facilitated by Matt Benson, OMNR FMS Sioux Lookout to get things in motion until a Chair was elected

MINUTES:

- all minutes and recommendations developed by the committee were documented by the committee and open to the public

FREQUENCY OF MEETINGS:

- met after TMP Planning Team meetings to be brought up to date
- met about 8-10 times through process

COMPENSATION TO MEMBERS:

- as outlined in the terms of reference "Reimbursement for reasonable out of pocket expenses for committee members where those expenses are incurred in carrying out members duties to and provide for the necessary administrative support of the

committee."

LOCATION OF MEETINGS:

- Sioux Lookout

DOCUMENTATION:

- notes from meeting with Matt Benson, FMS, OMNR Sioux Lookout
- committee terms of reference

CONTACT:

- Matt Benson, FMS, OMNR Sioux Lookout

NOTES:

- committee started out with 14-15 members but after a few meetings left with a core group of 5-biggest concerns were herbicide use and clearcut size and location due to problems with harvest allocations, plan was delayed (71 pages of alterations for first draft)
 Planning Team wanted to meet with the committee one last time before implementation of plan began, but because the Plan was delayed the meetings were scheduled for after April 1
 two dates proposed for the meeting but committee members could not attend due to prior commitments, business activities, etc.
 plan was implemented without a committee meeting
 committee meets twice a year to monitor implementation and address amendments if necessary
 one lesson learned was that it was almost impossible to depend on people for meetings after April 1 (i.e., during summer months) due to other interests, activities, commitments etc.
 MNR Sioux Lookout was not really sure why they were picked as a pilot district and were not to sure what to do with the committee
 Matt's feeling, should not have a committee for each issue or area of concern but one at the District level to work out objectives, guidelines etc.
 committee enjoyed working on objectives for unaccessed areas, working on objectives for accessed areas not as interesting
 committee was not very formal or tightly run
 because of the informality and no specific issues to address it was possible to write a loose terms of reference and let the committee develop the organization and procedural rules

CASE NUMBER: 6

CASE NAME: Terrace Bay District Stakeholder Committee

SUBJECT OF CASE:

- to advise on the development and implementation of the TMP

RESOLUTION vs. PREVENTION:

- prevention

AD HOC vs. STANDING:

- standing for the development of and duration of the 5-year TMP

TYPE OF GROUP:

- advisory, to prepare resolutions, raise issues and bring in the community interest

INSTIGATION OF THE GROUP:

- instigated by the Terrace Bay DM (Ron Running) one of the EA-derived pilot advisory groups established at beginning of the TMP exercise
10 members on the Committee

SELECTION OF GROUP:

- MNR identified and approached community and interest groups in the District to ask for support and representatives
representatives sent by groups which had been identified by the OMNR
representatives had to be from or involved with the management unit undergoing the TMP

COMMITTEE CHAIR:

- group selected its own chair

MANDATE/TERMS OF REFERENCE:

- developed by the OMNR, outlining the authority and responsibilities of the Committee

DECISION-MAKING:

- voting

MNR STAFF:

- DM and Unit Forester attended meetings but were not voting members of the Committee
could raise issues but had to be done through the Chair
DM asked them to address the topics of size of clear-cuts and road use and location

MINUTES:

- minutes of meetings were taken, and were accessible by the public

FREQUENCY OF MEETINGS:

- Committee responsible for determining the frequency of meetings, making agendas and taking of minutes

COMPENSATION TO MEMBERS:

- none; administrative costs covered by OMNR

LOCATION OF MEETINGS:

- Terrace Bay

DOCUMENTATION:

- notes from meeting with Ron Running (then the DM)

CONTACT:

- DM for Terrace Bay

NOTES:

- MNR not bound in any way to accept the Committees recommendations but would have to have good reason for rejecting them

CASE NUMBER: 7

CASE NAME: Sudbury District Advisory Committee

SUBJECT OF CASE:

- Committee put together to advise on the development of TMP

RESOLUTION vs. PREVENTION:

- prevention

AD HOC vs. STANDING:

- originally ad hoc to develop the plan, but now in place to monitor the implementation of the plan and deal with problems as they arise

TYPE OF GROUP:

- advisory capacity with eventual move towards decision-making anticipated

INSTIGATION OF GROUP:

- instigated due to the success of the French River Advisory Committee

SELECTION OF GROUP MEMBERS:

- MNR went to organizations and stakeholder groups they identified and asked for representative to sit on the committee
originally 11 members, now 14

COMMITTEE CHAIR:

- chaired by John Simpson (Unit Forester) at the request of the Committee

MANDATE/TERMS OF REFERENCE:

- developed by the OMNR

DECISION-MAKING:

- by vote, but depending on the issue, much consensus building is done prior to the vote

MNR STAFF:

- chaired by the OMNR and OMNR provides resource information

MINUTES:

- minutes of meetings kept

FREQUENCY OF MEETINGS:

- met as the plan development progressed (approximately every 2-3 months)

COMPENSATION TO MEMBERS:

- none

LOCATION OF MEETINGS:

- Sudbury

DOCUMENTATION:

- notes from meeting with DM John Sinclair and FMS Don Potvin, Sudbury District OMNR
list of Committee members

CONTACT:

- Don Potvin, FMS, Sudbury District OMNR
John Simpson, Unit Forester, Sudbury District OMNR
John Sinclair has been transferred to the Frost Centre

NOTES:

- most members from provincial organizations e.g. OFAH, Northwatch, OFIA, FON etc.
no time limit for members to be on Committee; OMNR feels the longevity of membership is good because there is much the members need to learn about the OMNR and each other
each meeting begins with representatives from two different organizations talking about their affiliation, what the organizations all about
group appreciates presentations from outside groups e.g. a mining company
Committee taken on field trips e.g. boat tour on the French River in July 1991
key is building trust and relationships
in order to avoid conflicts, OMNR must:
 - initiate an early start to communication before egos and hard positions get in the way
prevent surprises
include all stakeholders
wear different hats
want win/win solutions
maintain relationships, even when there is not a conflict
be careful of the language used with various stakeholders
- attempt to prevent/resolve all conflicts early, at the District level
staff turnover is low which helps build credibility and relationships
MNR has gone out of their way to contact as many stakeholder groups as possible
communication is listening

CASE NUMBER: 8

CASE NAME: Lac Des Mille Lacs Lake Management Plan

SUBJECT OF CASE:

- stakeholder planning committee set up to develop, implement and monitor management plan for the Lac Des Mille Lacs Lake for period 1992-2012.

RESOLUTION vs. PREVENTION:

- prevention

AD HOC vs STANDING:

- originally ad hoc but due to success is now standing for the implementation and monitoring of the plan

TYPE OF GROUP:

- planning committee, decisions made by group to be implemented if legal and maintain if not enhance the lake environment

INSTIGATION OF GROUP:

- instigated by the Thunder Bay District OMNR at the outset of the planning process

SELECTION OF GROUP MEMBERS:

- nomination forms sent out with lake management plan background information
MNR knew the stakeholder groups and numbers from each group which were to be part of the planning committee
nomination sheet outlined the committee members' duties and the selection process but did not specify that the OMNR knew the number and type of stakeholders it wanted or that a weighting system would be used to evaluate each nominee
nominations were scored based on who they represented, association with the lake in question, previous experience on similar committees, years of experience and background interest in the lake
deadline for nomination form submission was November 10, 1989

COMMITTEE CHAIR:

- District Manager, Thunder Bay District, OMNR

MANDATE/TERMS OF REFERENCE:

- at the first meeting of the planning committee, the participants were presented with a draft mandate and terms of reference which was developed by the OMNR and amended/approved by the committee

DECISION-MAKING:

- group worked on consensus basis but agreed in the terms of reference that decisions which could not be resolved by consensus were to be put to a vote

MNR STAFF:

- as stated in the terms of reference, OMNR staff was to provide technical and support information

MINUTES:

- minutes of all meetings were kept and open for public review at the Thunder Bay OMNR office

FREQUENCY OF MEETINGS:

- committee met once a month for 6 months to prepare draft plan

COMPENSATION TO MEMBERS:

- no financial compensation at all for travel, food or time, as outlined in the nomination forms

LOCATION OF MEETINGS:

- meetings were held in both Thunder Bay and Upsala

DOCUMENTATION:

- nomination form, terms of reference, background information, draft plan, final plan

CONTACT:

- Dave Coons, Senior Recreation Technician and Information Officer, Thunder Bay District OMNR (475-1533)

NOTES:

- the group was a success partly due to the process used and also because of the personality of the people involved
the use of the planning committee prolonged the plan development and was more expensive (financially and in person hours) than traditional method of plan development but in the long term it will have been well worth it
the public open house to review the draft plan was unique in that the committee members, not OMNR staff, were there to meet the public and answer questions the public which traditionally comes out to open houses to bash the OMNR were met by neighbours (committee members) which immediately diffused potential conflicts
the meetings and process were very informal

CASE NUMBER: 9

CASE NAME: Wild Rice

SUBJECT OF CASE:

- the issuance of a permit for the commercial harvest of wild rice on Mud Lake in Ardoch, Ont.
the great-grandmother of Mr. Harold Perry (a non-status Indian originally from Alderville Reserve) brought the rice seed from Rice Lake (near Peterborough) to Mud Lake
in succeeding years, Perry, his family and local residents have nurtured the crop for their sustenance
on May 16, 1978, Premier William Davis made the following statement:
"No additional licenses will be issued to non-Indians during the next five years unless it can be demonstrated to the Tripartite Working Group that market potential for Ontario wild rice is sufficient to support an increased share of production by non-Indians without jeopardizing our efforts to establish wild rice production as a viable economic base for the Indian people."

"Effective immediately Ontario will extend its efforts to assist Indian licensees to develop appropriate technology and to increase utilization of the available crop with the primary objective of establishing an economic base for the involved Indian communities."
- July 24, 1980, Wild Rice Tribunal Hearing held in Sharbot Lake, Ont. for the application from Lanark Wild Rice Company for a commercial licence to harvest wild on Mud Lake
hearing presided over by Mr. W.A. Buchan as appointed by the Minister of Natural Resources
application refused based on strong opposition from the local residents and native population
the method of harvest for the commercial licence would be with an airboat as opposed to the traditional method of canoe harvesting which has always been used by locals and natives
biggest concern is that the commercial harvest method would wipe out the crop, especially because the rice is not indigenous to the lake
also, the locals and natives don't feel the licence should be issued because it is "their" traditional resource and Premier Davis had stated in 1978 that no new licences would be issued to non-Indian people for 5 years
on August 19, 1981 a licence was granted to the Lanark Wild Rice Company for commercial harvesting of wild rice on Mud Lake
at a meeting on August 21 between Federal and Provincial government representatives and native organizations the natives outlined their concern over the issuance of the licence

concerns included:

- licence granted without consultation with the native people
- natives felt it was their right to harvest the rice
- concern over the use of mechanical harvesters
- not enough rice to supply the needs of the natives and a commercial harvest
- tourist outfitters also concerned because the duck population which supports a healthy duck-hunting industry will be hurt because of a lack of rice for the ducks to feed on

the provincial government (Mr. John Oatway representing the OMNR) outlined their reasons for the granting of the licence:

Lanark Wild Rice Company harvest rice in areas all over southeastern Ontario in 1979 Lanark was given a Letter of Permit (not a licence) under the terms of the Wild Rice Harvesting Act certain areas of the wild rice crop in 1980 Lanark's application for a licence was turned down. An appeal hearing was held on July 24, 1980, presided over by W.A. Buchan who recommended that Lanark not be granted the licence in August 1982, under the authority of the Minister of Natural Resource, Mr. Allan Pope, a licence was issued to Lanark to harvest a portion of Mud Lake the OMNR had divided Mud Lake into two portions; 40% of which is for Lanark to harvest and 60% is for Mr. Perry and other native groups and local who applied for licences to harvest the OMNR, based on expert advice concluded that there will be more than enough rice for all groups to harvest two experts from the University of Manitoba claimed that the rice stands on Mud Lake are in poor condition because the rice had not been harvested to its full potential over the past years MNR would like non-commercial harvesters to take as much as they can in order to improve the quality of the stands the licence granted to Lanark was in keeping with the OMNR policy direction that all resources be harvested to the fullest extent for the benefit of all citizens in Ontario and the economy of the province MNR declined to comment on the issue of the moratorium claimed by the Premier and that the decision to issue the permit was a ministerial decision MNR stated that the native concern over the use of mechanical harvesters was not valid since a number of Bands across the province use them

at the conclusion of the meeting the natives expressed their concern that the rice would be ready to harvest in one week and that a potentially explosive situation had been created by the OMNR by issuing the licence

it was agreed by all present that there was little that could be done at this point to head off a confrontation since it is the OMNR's position that Lanark will remain licensed to harvest the rice and if necessary the OMNR will come to enforce the law the conflict came to the predicted explosive situation on the weekend of August 29 and 30, 1982

concerned citizens of Ardoch and surrounding communities kept an all night vigil on the shores of Mud Lake on the night of Friday August 28 on August 29 (Saturday) two OPP cruisers arrived to escort Clifford Zarecki, owner of Lanark Rice Wild Rice Company, and his mechanical harvesting boat to Mud Lake

Zarecki is an Atomic Energy of Canada Ltd. engineer from Manitoba who moonlights as a wild rice entrepreneur the locals had formed a blockade on the road after half an hour of arguments with the locals, Zarecki left and the locals thought the incident was over

the following Sunday (August 30) the citizens of Ardoch (population 100) discovered the conflict had just begun

some citizens had stayed up Saturday night just to make sure the conflict was over, they had heard the boat would be coming back

at about 9:30 am law enforcement officers arrived like an army, very fast and without regard for anybody in the way

police cruisers brushed cars and people as they tried to clear the way, they never stopped to see if anybody was hurt

the police began pushing and shoving people and officers from the OMNR were shouting from their boats offshore "throw them in the paddy wagons"

27 OPP cruisers manned by armed constables, two paddy wagons, two tow trucks to haul vehicles out of the roadway, eight OMNR patrol boats, each with two armed wardens aboard and a police helicopter were on the scene

"there were more police and wardens than there were adult men in the village"

at 11:00 am the turning point came

"the police had forgotten or overlooked the fact that the land around the lake was private property and that Zarecki would be trespassing if he tried to enter where there was no public access

when law enforcement officers and the Lanark Wild Rice Company people heard this, it confused things

Lanark Wild Rice people tried to use a public access to put the harvesting boat into the lake but the access way was three feet too short

by 11:30 the police withdrew

RESOLUTION vs. PREVENTION:

- resolution of the conflict regarding who and how should have the right to harvest he wild rice

AD HOC vs. STANDING:

- standing in that the natives and citizens of Ardoch will remain involved in the conflict until an amenable resolution is achieved

TYPE OF GROUP:

- formal negotiating group, members being the natives, local communities, provincial

and federal governments and Lanark Wild Rice Company

INSTIGATION OF GROUP:

- group instigate by the native bands and local communities

SELECTION OF GROUP MEMBERS

- no formal process, concerned stakeholders and government authorities

COMMITTEE CHAIR:

- n/a

MANDATE/TERMS OF REFERENCE:

- none formal, Lanark wants to mechanically harvest the rice, natives and local communities want to maintain their traditional rights to the rice
mandate is to try to resolve the conflict

DECISION-MAKING:

- done through negotiations and hearings, influenced by political pressure and civil disobedience

MNR STAFF:

- responsible for the granting of harvesting licences
- had done some research on the quality, viability of the wild rice used to enforce the law of the licence

MINUTES:

- minutes of all meetings, hearings and negotiations kept

FREQUENCY OF MEETINGS:

- when necessary and/or possible

COMPENSATION TO MEMBERS:

- none

LOCATION OF MEETINGS:

- in the vicinity of Mud Lake, southeastern Ontario

DOCUMENTATION:

- Harrowsmith article
- collection of notes, minutes, articles from Alan Roy

CONTACT:

- Alan Roy, Union of Ontario Indians

NOTES:

see details in Subject of Case
seemed to be a very political case with several levels of government present
a clear example of how not to handle a conflict situation

CASE NUMBER: 10

CASE NAME: Brightsand Forest

SUBJECT OF CASE:

- timber harvesting versus remote tourism on the Brightsand Forest, an FMA forest held by CPFPP began in 1986 when Bruce LaVigne of Northern Wilderness Outfitters Ltd. learned that forest access roads and timber management activities were planned for areas near his remote tourism operations
LaVigne wanted to preserve the "wilderness" values in the area which were essential to his business and if the proposed activities went through, he wanted to timber companies to make provisions to minimize the impact on his operations
CPFPP and Buchanan Forest Products Ltd. wanted access to merchantable timber within the area but at the same time try to keep good relations with LaVigne and other operators in the area
the OMNR was caught in the middle, trying to keep both sides happy
conflict went on until 1989 until an agreement was finally reached
much correspondence occurred between the parties and several meetings were held to try and resolve the conflict
there was much negotiation and changing of positions which prolonged the conflict

RESOLUTION vs. PREVENTION:

- resolution, to try and keep LaVigne happy and at the same time ensure a reasonable wood supply for the companies

AD HOC vs. STANDING:

- ad-hoc

TYPE OF GROUP:

- formal and informal negotiations between the stakeholders and their representatives

INSTIGATION OF GROUP:

- process was put in motion by LaVigne's concerns which then brought in the OMNR, CPFPP and Buchanan

SELECTION OF GROUP MEMBERS:

- immediate stakeholders and their representatives (MNR, LaVigne, CPFPP, Buchanan)

COMMITTEE CHAIR:

- no formal Chair, OMNR tried to work as the facilitator, bringing the parties together

MANDATE/TERMS OF REFERENCE:

- none formal, mandate to resolve the conflict

DECISION-MAKING:

- done by negotiations, give and take

MNR STAFF:

- provided background information, acted for both parties in trying to bring them together

MINUTES:

- minutes of meetings were kept, not open to the public

FREQUENCY OF MEETINGS:

- as required or when possible

COMPENSATION TO MEMBERS:

- none

LOCATION OF MEETINGS:

- various locations throughout Northwestern Ontario, usually Thunder Bay

DOCUMENTATION:

- collection of correspondence compiled by Dr. Ken Brown, School of Forestry, Lakehead University for Ontario Advanced Forestry Program Module

CONTACT:

- Dr. Ken Brown and Dr. John Naysmith, School of Forestry, Lakehead University
- Bill Roll, CPFPP

NOTES:

- typical tourism vs harvesting conflict, one tourism operator against large forest products company, OMNR caught in the middle with no provincial remote tourism policy to fall back on or use as a guide
interesting suggestion by LaVigne to OMNR that he would be happy with another lake in remote part of northwestern Ontario but this proposal was rejected
problem of OMNR staff and verbal agreements changing like the wind
LaVigne used aggressive letter campaign to senior provincial politicians (Premier) and ministers (MNR)
LaVigne hired own lawyer to represent him
lawyer brought in forestry consultant (Dr. John Naysmith, School of Forestry, Lakehead University) as advisor to LaVigne
LaVigne subsequently wrote another round of letters to the Premier et. al. without advising Naysmith that he planned to do so
Naysmith believed this action was not consistent with the ongoing negotiation process and was generally counter-productive
as a result, Naysmith withdrew his services to LaVigne

only through long negotiations of much pressure, correspondence amongst the parties and persistence was this conflict resolved

CASE NUMBER: 11

CASE NAME: Seine River FMA

SUBJECT OF CASE:

- timber harvesting versus remote tourism
- Boise Cascade vs. Bruce LaVigne
 - planning for the TMP started 2 years before due date
 - Boise went to about 95% of tourist operators to discuss plan and potential operations
 - Boise tried on several occasions to meet with LaVigne but it was never convenient for LaVigne
 - two weeks before the Plan was to be signed LaVigne came forward and opposed the plan because of harvesting and a road coming to close to his camp
 - the Plan was presented March 30, 1992 for April 1, 1992 signature and approval
 - Plan was accepted but with the condition that LaVigne's concerns be addressed
 - MNR Regional Director told Fort Frances OMNR to resolve the situation
 - in May Boise reps met with LaVigne and offered a compromise of road construction to start July 15 and harvesting for September 15
 - LaVigne came back with a counter offer of September 15 for road construction
 - Boise could not accept this from an operational perspective
 - MNR kept informed of this and as a result Fort Frances DM (Mike Willick) stepped in and met with LaVigne on July 9
 - Willick met with Boise July 13 and told that he thought the September start date was his only concern
 - on July 11, LaVigne sent out a letter province wide (MNR, MTR, MOE, NOTO etc.) requesting support for a moratorium on all harvesting in the area around his lake
 - it was suspected that he wrote these letters because he was not happy with his meeting with the OMNR and felt Willick was anti-tourism and pro-timber
 - Boise and LaVigne reached an agreement on July 13
 - letters sent on July 11 to provincial organizations began to arrive on July 14, after an agreement had been reached

RESOLUTION vs. PREVENTION:

- resolution

AD HOC vs. STANDING:

- ad hoc

TYPE OF GROUP:

- one-on-one negotiations

INSTIGATION OF GROUP:

- instigated by Boise Cascade

COMMITTEE CHAIR:

- n/a

MANDATE/TERMS OF REFERENCE:

- none formally laid out, resolve the TMP problem

DECISION-MAKING:

- through negotiations despite TMP had been approved

MNR STAFF:

- participated as informal mediator, trying to help both sides reach agreement

MINUTES:

- informal meetings, no formal minutes kept

FREQUENCY OF MEETINGS:

- met as necessary, urgent to get conflict resolved

COMPENSATION TO MEMBERS:

- n/a

LOCATION OF MEETINGS:

- Fort Frances and area

DOCUMENTATION:

- notes from meeting with Paul Jewiss, Boise Cascade

CONTACT:

- Paul Jewiss, Boise Cascade, Fort Frances

NOTES:

- key to resolution in the opinion of Boise, don't react immediately, instant response is often too defensive
need to go home, relax and respond the next day, stay away from an initial response
conflict can be caused by timing, LaVigne felt unfulfilled with meeting with the OMNR therefore blew up
timing and non-commitment was causing conflict
Boise goes face to face with the stakeholders having a potential conflict
two approaches to meeting with stakeholders: 1) go with nothing or almost nothing planned and work with the stakeholder 2) take the worst case scenario to the stakeholder and work backwards to resolve the problem, makes you look good when you are accommodating needs of stakeholders
need much more and better quality of information to take to the stakeholders than

what is required in the TMP

this reduces the ambiguity and makes it easier to work from

Boise does face-to-face meetings with the OMNR and MTR present, if the OMNR is not present the stakeholder may not trust Boise as much and also the OMNR is there to make sure the stakeholder fulfils commitments

Boise over-allocates by about 150% so they have a place to start and can work backwards to accommodate concerns

CASE NUMBER: 12

CASE NAME: Wabigoon Forest

SUBJECT OF CASE:

- Wabigoon Forest is a CFP Inc. Company Management Unit
1993-1998 TMP for forest being developed
did not want to use a Stakeholder Advisory Committee for development of TMP due to advice from the Sioux Lookout OMNR from their experience with the Lac Seul Advisory Committee
fisheries and timber management activities in conflict
instead of a stakeholder committee, the OMNR and CFP went out to visit each concerned stakeholder to discuss the proposed TMP
looked at specific issues with specific stakeholders
tourism industry vs. CFP

RESOLUTION vs. PREVENTION:

- prevention, preventing conflicts related to the TMP before they became entrenched

AD HOC vs. STANDING:

- n/a

TYPE OF GROUP:

- n/a

INSTIGATION OF THE GROUP:

- n/a

SELECTION OF GROUP MEMBERS:

- n/a

COMMITTEE CHAIR:

- n/a

MANDATE/TERMS OF REFERENCE:

- no formal mandate or terms of reference were developed
informally, mandate was to prevent conflicts related to the TMP

DECISION-MAKING:

- decisions were made by OMNR and CFP with advice from individual stakeholders

MNR STAFF:

- MNR representative travelled with CFP staff to meet with each stakeholder

MINUTES:

- minutes of each meeting between the OMNR, CPFP and stakeholder were kept by the OMNR

FREQUENCY OF MEETINGS:

- meetings between stakeholders, OMNR and CPFP were held as often as required in order to resolve concern

COMPENSATION TO MEMBERS:

- none to stakeholder; CPFP and OMNR incurred all costs of meetings

LOCATION OF MEETINGS:

- meetings held where the stakeholder in question wanted them
meetings usually took place at the place of concern or place of business of the stakeholder

DOCUMENTATION:

- notes from meeting with Pat Corbett, FMS, OMNR, Dryden

CONTACT:

- Pat Corbett, FMS, OMNR, Dryden

NOTES:

- despite this forest being a company management unit, it is operated the same as a Crown Management Unit
problem that people have little concept of preplanning i.e. as soon as they see a map they think it is written in stone and cannot be changed
people feel they have no control in planning process, what is planned, is done
MNR felt like meat in the sandwich with CPFP on one side and the tourism industry on the other
open houses are useless to collect information, much better to contact people directly
had to keep on going back and back to the stakeholders until they were happy
were not working with provincial groups, e.g. OFAH or FON because they are not well organized in Dryden area
any town with a mill is slanted toward timber
conflict between overlapping OMNR plans, fisheries vs. timber, which takes precedence?
usually knew the position of the stakeholder and what was wanted even before the first meeting
Dryden not a conflictful part of the province
due to the nature of the people of Dryden, would not have received the support for a committee
why take a blanket policy such as the requirement of using a stakeholder committee if this were a policy and apply it when you have a better chance of working things out

with individuals?

planning team all agreed that a committee would not be a good vehicle for collecting information

CASE NUMBER: 13

CASE NAME: Magpie Forest Co-Management Committee

SUBJECT OF CASE:

- Stakeholder Co-Management Committee established to sustain and enhance the social, economic and environmental value of the Magpie Forest
- conflict traditionally revolved around the need for the remote tourism industry's need to maintain or enhance the feeling of remoteness on which the industry depends
- timber harvesting was opening up remote lakes for local fishermen through access roads
- fish populations on lakes were in jeopardy
- conflict between the residents of Hearst, Hornepayne, Wawa and Dubreuilville as to who should get rights and access to a variety of resources
- strong conflict between the French and English, long history and deeply rooted
- MNR seen as the dictator, making all the wrong decisions
- overall, lack of communication and misunderstanding significant
- a "bump-up" had been requested on the most recent TMP but was refused
- Minister of the Environment recommended a committee be put in place to secure public input for the TMP and to resolve these types of issues
- committee was put in place but was unable to resolve conflicts
- prior to disbandment, committee recommended the establishment of a co-management committee

RESOLUTION vs. PREVENTION:

- both resolve old conflicts and misunderstandings while preventing future conflicts

AD HOC vs. STANDING:

- standing

TYPE OF GROUP:

- co-management committee
- provided recommendations to the DM

INSTIGATION OF THE GROUP:

- originally formed by the Wawa District DM of the OMNR in 1991 to advise on the management of the Magpie Forest
- this primarily due to a call for a full EA on the Magpie TMP due to potential damages to the remote tourism industry
- full EA was not granted by the Ministry of the Environment
- through previous committee which failed, co-management committee recommended

SELECTION OF GROUP MEMBERS:

- the OMNR brought in a facilitator from Quetico Centre to act as facilitator and get

the committee running

MNR wanted to bring the stakeholders together to help in the decision-making process versus the OMNR making all the decisions

the idea was to take the heat off the OMNR and let the group fulfil its' own goals, not the OMNR's

MNR had no input in the selection of members

advertisement for volunteers to be on committee was put out, 19 applicants replied

all were interviewed by the facilitator and a committee selected

members were chosen based on their interests, ability to be good communicators and geographic area

originally 10 members, now 12

after committee created it was agreed that an OMNR employee should sit on the committee as a member

COMMITTEE CHAIR:

- elected by the committee
- 2 alternates selected

MANDATE/TERMS OF REFERENCE:

- goals and mandate were developed by the group during its first few meetings (spring 1991)
- committee now works at arms length of the OMNR with an extensive statement of purpose

DECISION-MAKING:

- all important decisions made by consensus
- if consensus cannot be reached and there is a time limit on the decision, the decision is left in the hands of the OMNR
- for important decisions requiring public input, public open houses are held

MNR STAFF:

- MNR staff serve as resource people
- one OMNR employee sits on the committee

MINUTES:

- minutes kept at all meetings by the OMNR
- a public Seminar Report was published from the first significant committee meeting (April 1991)

FREQUENCY OF MEETINGS:

- meet once a month

COMPENSATION TO MEMBERS:

- members are not paid but costs may be covered

MNR provided \$20,000 seed money to get the committee started

LOCATION OF MEETINGS

- alternated between Wawa and Dubreuilville

DOCUMENTATION:

- notes from meetings with Suzanne Dubé-Veilleux, Executive Director, Remote Tourism Industry Association (RTIA)
- notes from meeting with Serge Tenaglia, DM, OMNR Wawa
- notes from meeting with RTIA members
- Co-Management Committee brochure
- Seminar Report from Planning Seminar
- Report on the Economic Impact of the Remote Tourism Industry: North Algoma

CONTACT:

- Serge Tenaglia, District Manager, OMNR Wawa
- Suzanne Dubé-Veilleux, Executive Director, RTIA, Wawa
- Margaret Wanlin, facilitator, Quetico Centre

NOTES:

- MNR will implement the decisions of the Committee if they are reasonable and not illegal, although OMNR not formally bound to accept decisions by any type of formal agreement or documentation
- recommendations from the committee are given as much weight as recommendations from within OMNR
- reasons for success:
 - neutral party (facilitator) used to select and establish the committee
 - takes decision-making pressure off the OMNR, no bitter compromises
 - a common goal for the committee was established at the first meeting
 - elected as opposed to appointed chair
 - MNR used as resource staff
 - agreement by consensus
- group is now running on their own, facilitator there only to start up the group
- initial meetings used to break down barriers and get to know each other
- MNR had tried other mechanisms prior to the committee such as restricting access through road closures and blocks but this just deepened conflicts regarding the management of the Magpie Forest
- one factor in the conflicts was that stakeholders did not talk and mistrusted each other; the Committee brought the stakeholders together to learn about each other and make decisions co-operatively
- several areas of action have been outlined and undertaken in a variety of resource areas
- committee hopeful that in the future all resources will be better managed

CASE NUMBER: 14

CASE NAME: Minnitaki, Abram, Pelican and Botsford (MAPB) Lakes Advisory Committee

SUBJECT OF CASE:

- to recommend to the OMNR workable solutions to achieve sustainable yields of the fisheries within the Minnitaki chain of lakes, with consideration given to protecting the interests and lifestyles of all user groups
local fishermen versus the tourist operators with respect to fishery management and access
(facilitator's comments)the basis of the conflict was that all users of the fisheries were going to have to take a cut in consumption in order to preserve the fisheries but problem was who was going to take it and how much
the group was initially given a 6 month mandate which was far too short because of the bad blood between groups which was really played up in the local press, the Committee decided there would be no press releases and there would be no discussion outside of the meetings as to what the Committee was doing. This was felt necessary in order to develop rationale and recommendations before they would be debated publicly through the press
in the beginning (before the facilitator arrived) people met to see if there really was a problem or if the OMNR and its data were wrong, talked and challenged the OMNR for 6 months with little progress, no way of tracking the progress because the minutes focused on group positions, who spoke when and about what but missed the topics, issues, common ground and values. The minutes were therefore seen as counter-productive and harmful, not getting to the meat of the problems
the DM became aware that the committee was not functioning well and decided to bring in a professional facilitator to help the committee
Lorne Greig of ESSA was hired to act as facilitator
Lorne and other ESSA staff held a 2 day meeting in Jan 1990
group was sceptical of ESSA and grilled them extensively
from previous minutes, Lorne pulled ideas and concerns from the different groups at 2 day meeting, Lorne brought in biologist to talk about fish populations but from a different district, developed 9 questions which would be used to test each recommendation, built sets of recommendations that people would have to accept or reject as opposed to individual recommendations, therefore it was not just a straight give and take among stakeholders
after workshop report from ESSA sent back and the stakeholders were on their own to go back to their constituents with the framework to develop more recommendations
Committee then carried on in a more civilized and progressive format without help from ESSA
Lorne called back in to look at the recommendations and minutes and write the final report

the group had written the points and recommendations themselves, Lorne just put it into proper English and presentable form
 committee was able to come up with and agree upon 24 recommendations
 in the end, members still had their interests but had overcome the "personal" aspects

RESOLUTION vs. PREVENTION:

- to resolve the existing problems of overfishing and prevent a further depletion of the fish stock
 part resolution in that much technical and management information was agreed upon by all groups and part prevention in that the groups disliked each other so much, the situation could have become much worse

AD HOC vs. STANDING:

- standing

TYPE OF GROUP:

- primary job was to come up with recommendations to the Sioux Lookout DM and then to remain in place to monitor the implementation of the recommendations operated at arms length of the OMNR, at the request of the OMNR

INSTIGATION OF THE GROUP:

- instigated by the OMNR, Sioux Lookout District

SELECTION OF GROUP MEMBERS:

- stakeholder groups were identified by the OMNR and they were each asked to submit 3 names of potential committee members
 from the submissions the DM made the selection
 11 people on the Committee

COMMITTEE CHAIR:

- was selected by the committee but was outlined in the terms of reference that the Chair was not to be aligned with a specific interest group
 Chair was Arnold Beebe, local businessman who runs a marina and caters to both the locals and the tourists
 Chair had full control over all meetings

MANDATE/TERMS OF REFERENCE:

- developed by the OMNR and approved by the Committee
 detailed terms, see copy in the Report

DECISION-MAKING:

- decisions (recommendations) were achieved by a vote but negotiation work done prior to the vote, thus the voting process was a success
 each person had a vote but they were weighted so that each constituency had equal

power (some constituencies had more than one member on the Committee)
MNR had full authority to accept or reject any recommendations

MNR STAFF:

- as outlined in the terms of reference, OMNR and other government ministries available to act within a resource advisory capacity
the DM formed the Committee but wanted to be at arms length to avoid the perception of swaying the Committee

MINUTES:

- as outlined in the terms of reference, minutes were recorded by the OMNR, typed and sent out from the Sioux Lookout OMNR office and available for public review because the situation was so controversial and getting much press, the Committee asked that all meetings be audio taped for future reference if necessary

FREQUENCY OF MEETINGS:

- Committee met frequently, a total of 23 meetings between June 1989 and March 1991

COMPENSATION TO MEMBERS:

- as outlined in the terms of reference, the OMNR would cover all administrative costs (meeting rooms, coffee, copying, etc.)

LOCATION OF MEETINGS:

- Sioux Lookout

DOCUMENTATION:

- notes from meeting with Lorne Greig of ESSA and copy of the findings and recommendations report

CONTACT:

- Lorne Greig of ESSA
Arnold Beebe, Committee Chairman

NOTES:

part of the success was that Arnold Beebe was an excellent choice as the Chair nobody was to talk to the press unless it was agreed to by all Committee members (this was a major key to the success)
Committee reported to the OMNR as a higher authority, OMNR had nobody on the Committee
successful due to the people who were involved, they came there mistrusting each other but hung together to learn about each other
the implementation part of the report was very important
during the development of the recommendations, there was much discussion among

the Committee members and their constituents

the Committee was rigorous over the scientific data

how you document a meeting is very important, standard note taking is not helpful,
tracking methods needed for issues

Why successful (Lorne's opinions)

- very specific problem
 - well defined mandate
- all groups were convinced that there was a problem and felt pressure to resolve it
- process for selecting the members was excellent

Al Mathews (DM) intervened and found a process through ESSA, the question is do you start with a process or do you develop it as you go?

conflicts in general:

must be very clear on uncertainties, if you don't know admit it and try to find out

power of the press is tremendous

MNR has been too general with information and technical data

must be honest about science, don't talk down or oversimplify, try to help them understand

natural resource managers must be police, rule-makers, scientists and educators all at once and nobody is being trained for that

CASE NUMBER: 15

CASE NAME: Nagagami Forest, Granite Hill / Obakamiga Lakes

SUBJECT OF CASE:

- remote tourism operators in the area requested a 3 km buffer around their lakes to protect them from the adverse effects of timber harvesting operators felt the forest management activities in the area was threatening the remoteness of their operations logging roads being created in the area was giving local residents non-traditional access to the lakes which was, among other things, threatening the fishery 5-year TMP was being developed for April 1992 by the FMA holder, QUNO Corp. for the forest Haavaldsrud sawmill in Hornepayne held third-party agreement to harvest sawlogs in the area Hornepayne Rod and Gun Club wanted to maintain access to lakes for recreational fishing Hornepayne First Nations wanted to ensure Haavaldsrud mill would stay open; it was major employer for natives in area Hornepayne Economic Development Committee wanted to ensure a sustainable and vibrant economic activity in the area stakeholders needed to resolve conflicts regarding the use and allocation of resources brought together for a negotiation process outside facilitator brought in at request of OMNR and stakeholders to (a) assess and report on the conflict and possibility of resolution and (b) facilitate negotiations among stakeholders

RESOLUTION vs. PREVENTION:

- resolve question of moratorium and development of 5-year TMP

AD HOC vs. STANDING:

- ad hoc to resolve moratorium and TMP problems

TYPE OF GROUP:

- parties to a negotiation

INSTIGATION OF THE GROUP:

- members were identified by the OMNR and facilitator
- group formed at request of Wawa OMNR DM (Serge Tenaglia)
- group held first formal negotiation meeting with facilitator

SELECTION OF GROUP MEMBERS:

- members were selected based on having a stake in the outcome of the conflict included parties necessary for the successful resolution

members asked by word of mouth

COMMITTEE CHAIR:

- n/a

MANDATE/TERMS OF REFERENCE:

- mandate for the group was to resolve the conflict
mandate for the facilitator was to bring the stakeholders together, and help them build and implement a process for resolving the conflict
facilitator's mandate developed by the OMNR
facilitator worked with the group to develop a process for the negotiations

DECISION-MAKING:

- all decisions we made through consensus, consensus meaning that all stakeholders agreed to the proposals

MNR STAFF:

- used as resource people and were present at the negotiations as a stakeholder

MINUTES:

- no formal minutes of meetings were kept
at the end of each meeting a facilitator's report which summarized each meeting's events was distributed to stakeholders

FREQUENCY OF MEETINGS:

- meetings held at the discretion of the parties and the facilitator

COMPENSATION TO MEMBERS:

- no compensation given to members
MNR covered administrative costs and costs of meeting facilities

LOCATION OF MEETINGS:

- meetings were held in Hornepayne, Ontario

DOCUMENTATION

- facilitator's assessment report to the TMP planning team
- facilitator's report at end of negotiations
case study in "Beyond Dispute"
file on this case, a variety of notes, reports etc.

CONTACT:

- Peter Duinker, facilitator, School of Forestry, Lakehead University
Serge Tenaglia, DM, Wawa District, OMNR

Leigh Colpitts, Unit Forester, Wawa District, OMNR

NOTES:

- ten points were outlined by the facilitator as to why the group could not reach an agreement within the specified timeframe.
- 1. The short-term impacts on each party of reaching an agreement were sufficiently different that progress was blocked. In other words, the timber groups would run the risk of a wood-supply shortage if an agreement in the short-term was not reached. On the other hand, the tourist operators would have a short-term gain as long as the moratorium on harvesting in the 3 km zone was in place.
- 2. The parties had too long and strong a history of tense and mistrustful relations. This led to scepticism about the potential success of the negotiation. The facilitator went on to say how shocked he was at how participants addressed each other in unfriendly and unbecoming ways.
- 3. The disagreements among the parties were too deep and fundamental to be resolved through negotiation. The facilitator was confident that acceptable solutions could have been found but the group was unwilling.
- 4. The negotiations were severely hampered by the poor quality of information with which to estimate the impacts of management alternatives. Some participants seemed not to understand that such assessments require predictions into the future, and that predictions about the future can only change if one's basic assumptions change.
- 5. The facilitator suggested that he might have been insufficiently skilled to assist the parties in designing and implementing a process that could work under the circumstances. More time should have been spent on process design, scoping of the issues and establishing the information base. More time working with each group individually would also have helped.
- 6. The negotiations failed to take seriously any future that is different from the past. There was not enough collective commitment to change among the parties.
- 7. Parties were generally unwilling to search for ways to help other parties meet their needs. They were successful in discovering what each party wanted to take, but could not discover what each party would be willing to give.
- 8. Parties were at times represented at meetings by alternates. The alternates' participation style and level of preparedness for negotiations were not helpful to progress that built upon previous meetings.

9. While there was a well-established policy for timber management on Crown lands in Ontario, there was no forest-based tourism policy. A tourism policy would probably have been a good reference point on many difficult issues.

10. Some groups did not fully understand the role of the facilitator. Some groups felt the facilitator was there to represent and support their position to the other groups as opposed to being completely neutral.

APPENDIX V

**BEYOND DISPUTE: COLLABORATIVE APPROACHES
TO RESOLVING NATURAL RESOURCE AND ENVIRONMENTAL CONFLICTS**

BEYOND DISPUTE:

Collaborative Approaches to Resolving Natural Resource and Environmental Conflicts

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and
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Thunder Bay, Ontario

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The document can only have value in promoting collaborative approaches to the resolution of conflicts over natural resources and the environment if it is readily available. Therefore, we hereby give permission to copy the document in any quantities for personal use or for distribution without charge. We only ask that it be copied in its entirety, with all 51 pages included in the copies.

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RESPONSES TO THIS DOCUMENT ARE INVITED !

If this document turns out to be helpful to readers, we would like to know about it. If it has been helpful to you, please write to us at the address above. We would like to know how it has been helpful. Also, we would like to receive feedback on how we can improve a second edition of this paper. If you know about a good case of conflict resolved, perhaps you could let us know so we can write it up for possible inclusion as a case study in the next edition.

PREFACE

This study began in the autumn of 1990 with a grant from the Fund for Dispute Resolution. We felt at the time that the current forms of planning and decision-making for natural resources and environment were largely ineffective. The research is dedicated to discovering and describing processes which foster better participation of local stakeholders and which bring local knowledge and interest into resource-management decisions.

We do not advocate sidestepping official planning processes, nor do we push for changes in resource and environmental legislation. Neither would we undermine the authority of government, particularly the provincial government through the Ministry of Natural Resources, to make decisions about publicly-held resources and the environment. Rather, our aim is to help citizens understand conflict better and work towards an amicable and timely resolution. We recognize the special position of the First Nations in Ontario at this time of negotiations on self-government, and sincerely hope that Aboriginal people too might find this work useful.

Working with our Project Advisory Group and the Fund for Dispute Resolution, we decided that a citizen's guide to conflict resolution would be useful in the hands of people involved in resource and environmental conflicts in Ontario. We do not believe that a "cookbook" full of conflict-resolution recipes would be the right approach to such a guide. Rather, we think a collection of ideas based on experience, mostly that of people involved in real conflict situations in Ontario, would be most useful. To put the ideas together in this document, we have done several things. We read much of the literature on the subjects of conflict resolution and public participation in natural resource and environmental decision-making. We have travelled throughout Ontario, mainly the north, and talked to people about their experiences in resource conflicts. We have analyzed these experiences to search for patterns in what seems to work and what does not. Finally, we have had many people look over this document to see if it provides useful information.

ABOUT THIS DOCUMENT

This document is:

A compendium of ideas about approaches that could be useful for people involved in conflicts over natural resources and environment.

Based on North American experiences, and has been reviewed by citizens across Ontario.

Advocacy-oriented. We do not apologize for the fact that we advocate cooperative, learning-based approaches (such as mediation and negotiation) as opposed to adversarial, adjudicative approaches (such as courts and tribunals) to conflict prevention and resolution. These latter approaches have a place, but so far they have been too strongly emphasized in decision-making about natural resources and environment within Ontario.

This document is for:

People involved in natural resource and environment conflicts. It may be useful to people who design approaches to conflict resolution, or otherwise play leadership roles. However, we intend it primarily for people who are in conflict with each other, and who might find it helpful to understand more about the avenues open to them in resolving their conflicts.

This document is not:

An academic essay. In-depth works about conflict resolution already exist. We are making contributions to the scholarly literature based on the research supporting this document. The citizens of Ontario are better served by practical and accessible advice through presentations about lessons from practical experience.

Packed with brand-new information that has never been seen before. Most of what we say here has been known by some people for a long time. Our aim is to bring tested ideas into an Ontario context in a way whereby many people can become familiar with them, and hopefully use them.

Intended to influence the actual decisions people make, only the process they use.

ACKNOWLEDGEMENTS

We are deeply grateful to the Fund for Dispute Resolution for financial support, and also for helpful guidance from Fund staff members Sylvia McMechan and Rosemarie Schmidt. A big thanks to the members of our Project Advisory Group for their interest, support and time, but most importantly for their thoughts and insight on the research and for helping shape the content and structure of this document.

Appendix C contains the members of the Group. A special thanks to Ray Riley, Assistant Deputy Minister, Ontario Ministry of Natural Resources, for his letter of introduction to MNR staff. We are also indebted to the Ontario Ministry of Natural Resources, numerous forest-products companies and a variety of natural resource users for providing us with much time, support and a wealth of information. Their input is the main substance of our research. Lastly, thanks to all those who reviewed this document in its draft stages and helped make it useful and practical.

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CHAPTER 1 - People and the Natural Resources and Environment in Ontario

Conflict Situations

Imagine the following:

1. You own and operate a fly-in fishing lodge in the "wilderness" of Northern Ontario's boreal forest. Years ago, when you started the business, there were no roads near your area, and no logging in the forests surrounding the lake. As time went by, the logging and the roads came nearer and nearer. The current plan for logging in the next decade calls for roads and clearcuts quite near the lake. To say the least, you are not happy about the situation. You never did trust bureaucrats and industrial foresters, and you don't feel ready to give in any more. How do you handle the problem? Is it time to take legal action? Establish a blockade or ruin a few skidders and feller-bunchers? A smear campaign in the media against the logging industry?
2. You work in the sawmill in a Northern Ontario town, and you love to hunt and fish in the surrounding forests. You spend most weekends at your favourite hunting grounds or fishing lakes, driving there on logging roads. The Ministry of Natural Resources (MNR), the industrial forest managers, and the remote-tourism outfitters have decided to gate a Crown-land logging road, one you have used frequently before, because it now goes near some remote-tourism lakes that are reserved for use by people getting there using traditional access. You argue that "traditional access" includes your use of the road by truck to get into that country, the way you have for years now. The other parties don't agree, and you are furious. What do you do? Tear down the gate? Contact your member of provincial parliament, or the Minister of Natural Resources? Make some threatening phone calls to government and industrial officials?
3. You are the owner/operator of a small lumber mill which depends on white pine in northwestern Ontario. The Ministry of Natural Resources has guaranteed you an annual harvest allocation of white pine of 15,000 cubic meters for the next five years. After the first year, you are informed suddenly that your allocation has been removed from the annual work schedule. The reason, you later find out, is that the white pine stands in question have been declared by a group of preservationists as an "area of provincial significance" because of the possible existence of old growth pine. What do you do? Do you close the mill and watch your employees go onto unemployment insurance? Second, do you lobby the MNR to unlock the frozen allocation? Do you confront the preservationists and insist they see it your way?

These kinds of situations are real in Ontario. They are just samples of a wide range of disputes which can and do arise between users of the natural resources and environment of this province.

We shouldn't expect that all disputes would go away if everybody would just agree to get along better and be reasonable in the demands they place on resources. That will not happen. As we shall see later, for many reasons there will be an increasing number of situations which can lead to conflicts, even bitter conflicts. What we can hope for, though, is that people and organizations in disagreement with each other can find productive and insightful ways to

resolve their disputes, to the mutual satisfaction of all parties. This document is based on such a hope; indeed, we firmly believe that many of our natural resources conflicts are unnecessarily bitter and hurtful. *There are numerous ways that disagreeing parties can work together locally to find solutions that are acceptable to everyone.*

Why Should You Be Interested In Conflict Resolution?

Conflict is part of everyone's life. There is conflict within families, among friends, between buyers and sellers, between bosses and staff, on committees, in the classroom, at the pub. Each citizen faces conflicts of one sort or another frequently in daily life, and many are involved in environmental and natural resources disputes.

On one hand, you may be personally embroiled in one or several disputes now. Taking some time to think about positive approaches to resolving conflict might save time, money and aggravation later. Even if you are not directly involved in a conflict over the use of natural resources and environment, you probably have friends who are, or you are aware of such conflicts in your community. Conflicts that fester and are allowed to grow without serious attempts to resolve them can be very divisive in communities. Sooner or later, one way or another, you will be drawn into a conflict, so it would be helpful if you felt confident and knowledgeable about the topic and the alternative ways of avoiding, reducing and resolving conflict.

The Present, The Past and Some Potential Futures

The Present and the Past

- We value nature and environment strongly in a variety of ways.
- People are increasing their presence in natural environments.
- Citizens demand a high degree of participation in decision-making about natural resources.
- The amount of natural area we can use and enjoy is fixed, or decreasing.
- Society's attitude towards more responsible management has evolved rapidly.
- People are incredibly mistrustful of each other and of organizations.

The opportunities for conflict among people involved in the use and management of natural resources and environment have never been greater than at present. Why is this happening? From a conflict point of view, here are some ways in which resource and environmental management in Ontario today is different from the past:

1. We value nature and environment strongly in a wider variety of ways. Taking forests as an example, we used to value them mainly as sources of wood and wildlife. In fact, when settlers moved here hundreds of years ago from Europe, the forests needed to be cleared to make a living by farming - forests were a nuisance. Today, forests are still very important for wood, fibre and wildlife, but we

value them also as functioning ecosystems that store carbon, purify polluted air, provide shade and soften a harsh climate, protect soil and water, provide opportunities for recreation and spiritual fulfilment, and so on. Clearly, the more we value the forest for different things, the more opportunities there are for people to be in conflict with each other.

2. People are increasing their presence in natural environments. Today, Ontarians have more spare time and money than ever before and technology is enabling more uses of the environment. Recreation in natural environments is becoming very important. Also, industrial uses like logging and mining, and residential and commercial uses of natural environments have progressed in such a way that more and more of the landscape of Ontario is subject to strong human influence. As the number of people who want to use natural environments increases, so rises the number of opportunities for conflict among those users.

This may not be so bad, except for several traits of our Ontario society and the way we set up our system of property and rights. First, we are a very diverse citizenry in Ontario, so the range of views and values brought to any discussion of natural resources and environment is wide indeed. Second, Ontarians are continuing to learn a lot about each other, and how to live together harmoniously. We have much maturing to do in this respect. Third, most of the natural resources in Ontario are in public ownership, with arrangements of various sorts for private use by individuals and businesses. This may not have been a problem in the past, in a time of resource abundance. But today, as users begin to overlap in their presence and demands on natural resources and environment, our system of property rights seems unclear about who has the right to what, and how. This

begets conflict, and as we take the long road to establishing clearer sets of property rights, the need for interim agreements and dispute resolutions will rise.

3. Citizens of Ontario today demand a high degree of participation in decision-making about natural resources and environment. Most decisions were once made by government and specific resource users, but now the public wants better management guidelines and direct involvement in planning. As more people get involved in such decision-making, there will be a wider range of opinions on how natural resources and environment should be used and managed. As a result, there is greater opportunity for conflict. Not only is there conflict about actual resource use, but as people learn how to share decision-making tasks, there is increasing conflict about public participation in planning. The processes are not yet widely seen as providing for meaningful public involvement.
4. The amounts of land and environment we can use and enjoy are fixed, or decreasing. At one time, when resource users could easily avoid rubbing shoulders, we did not worry about there not being enough to go around. But the lands and waters of Ontario are of the same extent today as they were centuries ago. Today, there are more values, more uses, more people, and more pressures. Indeed, some would say that we have badly degraded and reduced some of our natural heritage, such as our forests. Thus, of some resources, there is much less to go around today than previously. With fixed or reduced resources, and more demand on them, we have a perfect recipe for more conflict. We either have to do more with less, or reduce our demands to match resource and environmental sustainability. Both are difficult, and will give rise to more conflict.

5. People's attitudes towards more responsible management of natural resources and environment have evolved rapidly over the past decade. Unfortunately, government policies and guidelines regarding resource management have not kept up with these changes. People feel frustrated with outdated government methods which do not accommodate proactive public participation.

6. People are incredibly mistrustful of each other and of organizations and institutions today. We don't trust local or big government, politicians and bureaucrats included. We don't trust industry, especially when it is owned and controlled by interests far from the local office or mill. Interest groups are not trusted, no matter what they stand for. And we don't trust each other locally, because our behaviours towards each other in the past have been less than amicable.

In the past, people were more trusting and accepting of imposed limitations and restrictions. But for a variety of reasons, we place little trust today in the people with whom we come into conflict. A general lack of trust among resource users only makes conflicts bigger and more numerous.

What about our track record in settling resource and environmental conflicts in the past? What approaches did we take, and how well did they work? Cooperative approaches have always been part of dispute-settling, but so have adversarial approaches. In Ontario, it seems that as soon as people felt that government and industry decisions about resources and environment were bad, they resorted to adversarial means to get faster and better decisions. We are quite prone to using competitive approaches to decisions. In other words, we are often unwilling to give up any ground in disputes and we set up mechanisms to determine, as fairly as possible, who will win and who will lose.

Planning tribunals in Ontario bear this out. Take the Ontario Environmental Assessment Board (EAB) as an example. We undertake environmental assessment (EA) so we can ensure that environmental values are not unduly compromised by development. In other words, we want to keep undesirable environmental impacts at acceptable levels. The Ontario Environmental Assessment Act was put in place in 1975 to make sure that this was done properly for all major developments in the province. The Act could have included a process where developers would work cooperatively with stakeholders and citizens locally to develop acceptable forms of development. Rather, we assumed that as soon as an environmental assessment were called for, people were in conflict and a form of adjudication was needed. Therefore, the EAB exists as the most powerful environmental decision-making tribunal in North America. It uses quasi-legal procedures to decide whether development can take place, and under what circumstances. Parties appearing before the Board are in favour of or against development as proposed. Court-like behaviour dominates, where lawyers grill witnesses about their evidence.

In reality, we could undertake good EA, and get sound decisions, without resorting to the formal procedures of the EAB. Developers could work with local stakeholders and citizens to analyze and address their environmental concerns. But we seem to avoid such cooperation and fall back on the winner/loser, court-like approach. Fortunately, in EA in Ontario and elsewhere, we increasingly see attempts by competing interests to resolve their differences earlier through negotiations.

Some Potential Futures

- A Bitter Future
- A Sweet Future
- A Bittersweet Future

There is a growing frustration among resource and environmental stakeholders in Ontario with the formal avenues to make a difference in important decisions. We see a great opportunity and demand for local, informal decision-making approaches that draw out the best in people and allow each participant to be heard and to make a positive contribution. What vision do we have of the future for resolving resource and environmental conflicts? What paths could Ontario follow? Let us paint three scenarios - one surely undesirable but possible, one desirable but impossible, and one realistic and positive.

1. **A Bitter Future** - What if we are unable to find ways for local resource stakeholders and citizens to resolve their disputes cooperatively and within a reasonable amount of time? What if conflicts continue to be tooth-and-nail fights where people advance their personal agendas through confrontation? As long as some people are determined to try to win while others have to lose in resource and environmental disputes, the future will be a bitter one, with much tension, more mistrust, and perhaps resource-management outcomes our children will not be happy to inherit.
2. **A Sweet Future** - What if everyone involved in natural resources use and management in Ontario were to become a very cooperative team player in decision-making? What if everyone knew well all the options for resolving conflicts, and chose to participate only in local, negotiation-based approaches? Could we be so lucky? This seems utopian, but it's a good future to aim for.
3. **A Bittersweet Future** - What if there is a movement among stakeholders and citizens to sort out their differences locally and cooperatively? What if, more and more, resource and environmental professionals act as advisors and facilitators in processes where

stakeholders and citizens can work together to come up with solutions to their problems? What if there were a wider and deeper understanding of the cultural, social, economic and environmental implications of our natural resource conflicts? Conflicts will not automatically disappear, but surely more of them would be resolved successfully without big fanfare or formal arbitrations. And, less mistrust would exist in the community of participants in natural resources decision-making. Could this happen? We believe it can, and should. The bitter present could give way to a brighter future, step by small step. The sustainability of our natural ecosystems and human communities will be enhanced as we learn to work together more effectively when we disagree on how resources and the environment should be used and managed. This should be the future for Ontario.

More About This Document

Throughout the document we use the term "consensus-based decision-making" as a mechanism for resolving natural resource and environment disputes. The term "consensus" is defined in Appendix B. We support this approach for decision-making because it is the most successful way to make win/win decisions. Win/win decisions are the type of decisions in which all affected parties can live with the outcome. The opposite to win/win is win/lose decisions which have been the result of traditional natural resource and environment decision-making. This kind of outcome is to be avoided.

Our final point here deals with the local nature of natural-resource decision-making. While local is the most appropriate focus, all such decision-making must consider the regional, provincial, national and international implications. Our global resources are fixed and each decision we make affects these resources. However, our intention with this

document is to help people look at how decisions are made, not at the details of the decisions themselves. In the next chapter, we recount and analyze some recent Ontario conflicts. From the successes one can find promising paths to follow. From the failures, one can learn about pitfalls to be avoided. Chapter 3 looks at the anatomy of conflict through a series of questions and answers. In Chapter 4, we present ideas on how to proceed toward the resolution of conflict using negotiation. Chapter 5 presents a framework for natural resources and environment. Finally, in Chapter 6 we discuss the concept of public participation and look at ways of improving it. In Appendix A we provide suggestions about literature one might turn to for extra guidance. Appendix B is a glossary of conflict resolution terms.

CHAPTER 2 - Resolving Conflicts: Lessons from Experience

Among other things, we have spent much time travelling throughout Ontario, especially in the north, finding out from a variety of people what kinds of approaches they have been using to resolve conflicts over natural resources and environment. From our set of case studies, we selected five recent conflicts which have important messages, and illustrate the different ways people deal with conflicts. We have changed the names of individuals and locations so readers will focus on the messages rather than who was actually involved.

Case 1 - A Co-Management Experiment

The Purcell Forest in Central Ontario, an FMA forest, was like many other forests in the province, riddled with conflict. The forest contained a great number of remote tourism operations, and several of the operators had done business in the forest for decades. The conflict emerging in the Purcell Forest was all too familiar - the encroaching timber-harvest activities were endangering the feeling of remoteness which the tourist operators and their customers so highly valued. To complicate things, new forest roads were providing local fishermen with access to previously remote lakes. Fishermen came to these lakes from the surrounding four towns of Dylan, Pyper, LaRoche and Ambrose because the local lakes, closer to the towns, had been fished out. As fishing pressures increased, it became obvious that fish stocks in the newly accessed lakes were also in jeopardy. Not only did these towns compete for fishing opportunities, they disagreed over who should get the trees from the Purcell Forest because each of the towns had at least one mill. Techniques such as gating and closing roads to the public had been tried in the past by MNR, but that only infuriated residents and heightened the conflict. MNR, which

in the past had been accused by most people of making so many bad decisions, knew that action had to be taken before this long-standing, entrenched conflict boiled over.

The tourism operators in the forest were very concerned that timber-management activities would damage, if not ruin, their businesses. They requested a formal environmental assessment of the Timber Management Plan (TMP). The EA was not granted, but the request was MNR's indication that some mechanism for resolving the conflicts was needed. The mechanism selected by MNR was a Co-Management Committee. MNR brought in a professional facilitator to help form the Committee and get it running. The goal of the Committee, a standing body, was to make recommendations to MNR which would enhance the social, economic and environmental values of the Purcell Forest. Advertisements for volunteers to sit on the Committee were sent out and about twenty applicants replied. MNR had no input into the selection of the Committee members. The facilitator interviewed the applicants and ten members were selected.

The terms of reference, mandate, and goals of the Committee were developed by the Committee members and they selected their own Chairperson. The Committee operated at arms length from government, with MNR providing information and resources. Meetings were held once a month, minutes were kept, and all decisions were made by consensus. If a decision could not be made by consensus, it was left in the hands of MNR. All decisions made by the Committee were implemented by MNR, provided they were legal and reasonable. However, MNR was not bound in any formal way to implement decisions. The Committee worked as an effective mechanism to clear up old

misunderstandings and mistrusts while providing solid directions in resource management.

According to MNR, the Committee was a success for several reasons. First, an independent, neutral professional facilitator was brought in to select Committee members and get the Committee running. Second, pressure on MNR to make decisions arbitrarily was greatly reduced, and no bitter compromises between stakeholders had to be made. Third, the Committee selected its own Chairperson in addition to developing a terms of reference, statement of purpose, and goals. Last, the Committee was an opportunity for stakeholders who held long-standing, deep-rooted biases, mistrusts and misunderstandings to come together to communicate, "clear the air", and make co-operative decisions. The lasting effect of the Committee was improved decision-making and resource management.

Case 2 - A Fishing Crisis

The Carling, Anderson, Reilly and Simpson (CARS) lake system of Northern Ontario was at one time home to a very prosperous recreational fish harvest. Those days were over as MNR, local residents, and remote and road-accessed tourist outfitters blamed each other for the significant decline in the fisheries. The debate as to who was responsible and how depleted the fish populations really were carried on and on. When MNR officials finally declared the fisheries were danger, with populations unsustainable at current rates of harvest, nobody believed them. Mistrusts and misunderstandings between stakeholders pushed this conflict over the edge.

MNR was confident there was a major problem with the fisheries, but also knew that the stakeholders more or less hated each other. MNR officials felt the only way this conflict could be resolved was through the creation of an Advisory Committee. In setting up the group, the mandate given to it was to

recommend to MNR workable solutions to achieve sustained fish yields within the CARS lake system.

In addition, consideration had to be given to protecting the interests and lifestyles of all user groups. MNR identified stakeholder groups, and each group was asked to submit three names of potential Committee members. From these names, the MNR District Manager selected the Committee members. Terms of reference were developed by MNR and approved by the Committee. The Committee was to select its own Chairperson, but it was clearly stated in the terms of reference that the Chair was not to be aligned with a specific interest group. At the request of MNR, the group operated at arms length from government.

Meetings were held once a week and then monthly, and minutes were kept of each. The group members were so mistrustful of each other that minutes alone were not enough. They soon requested that all meetings be audio-taped in case a clarification was needed in the future. Recommendations were achieved by vote, but there was much negotiation among members before a vote was taken. Each person on the Committee had a vote, but because each stakeholder group did not have equal representation on the Committee, the voting was weighted so that each constituency had a proportional say. The terms of reference outlined the role of MNR and other government ministries as being available in a resource advisory capacity. However, MNR had full authority to accept or reject some or all of the recommendations developed by the Committee.

The Committee was a good idea in theory, but there were several setbacks in the early stages which threatened its continuation. The terms of reference gave the Committee only six months to do its job. This was an unrealistic timeframe given the complexity of the conflict and the mistrust among stakeholders. The local press played up the bad

feelings among members, and the misinformation and mistrust escalated. The effects of the press were so negative that the Committee decided to stop issuing press releases and kept the workings of the Committee private. Members felt this was necessary to develop thorough rationales for recommendations before they would be debated publicly through the press. Only when all members of the Committee agreed would there be some form of public announcement. The minutes of the meetings focused on group positions, who spoke when and about what, but missed the topics, issues and common grounds discussed. The minutes were therefore seen as harmful and counterproductive - they were not getting to the heart of the conflict. To make matters worse, the stakeholders spent most of the early meetings arguing whether an overfishing problem really existed, and whether they could believe MNR and its data.

The Committee was not progressing well. The stakeholders began to realize that if there was a problem with overfishing, their opportunities and access to the lakes could be reduced. This put people into adversarial positions because nobody wanted their opportunities trimmed. MNR could see that the Committee was failing and the help of a professional facilitator was needed to bring the Committee back on track. The facilitator scheduled a two-day meeting for the Committee to find common ground and build up a productive working relationship. A biologist was brought in from elsewhere to analyze the fish populations and give an independent opinion on the state of the fisheries. As MNR had been telling the Committee, the fisheries were in trouble, but it was not until a knowledgeable, neutral, third party explained the situation that people would agree on a common set of data. The minutes were kept in a way that a record of common ground and progress could be followed. A set of criteria for evaluating recommendations was developed by the Committee. These proved essential for the process of developing recommendations.

The two-day meeting was a success, and the Committee was left on its own to continue to develop recommendations. A few months later, the facilitator was asked to return and look at a draft set of recommendations. Based on the draft recommendations, a formal report was written and submitted to the MNR District Manager for consideration. In all, the Committee was able to agree upon and deliver more than twenty recommendations.

The Committee was seen as a success because the members faced a specific problem and were given a well-defined mandate. The initial timeframe was far too short, but this was realized and an extension granted. It took much time, but eventually all groups were convinced that there was a problem with the fisheries and they felt a strong need to resolve it. In the early stages, the Committee had a process but it was not working effectively. Upon realizing this, MNR brought in a professional facilitator to help develop the process. The power of the media was strong and its role disruptive. The committee needed to build relationships and trust and the media was making this nearly impossible.

This case shows that very bitter conflicts can be resolved through a committee structure, provided a strong process is in place. In addition, stakeholders must be given ample time and opportunity to get to know each other better and learn how to work with each other effectively.

Case 3 - Talking Problems Through

In the small Northern Ontario community of Foley, MNR and Smith Forest Products (SFP) began to work out the procedures for preparing a timber-management plan for the Inverness Forest. The formal planning process began two years prior to the deadline, and both MNR and company people knew the process was not going to be easy. The Inverness

Forest, a company management unit, was controversial, to say the least. Smith Forest Products had been hit hard by the recession and a secure wood supply from the Inverness Forest over the next five years was going to be essential to the survival of Foley's largest employer, the SFP mill.

The traditional planning team was created and it was composed of both MNR and SFP employees. The team had a strong feeling that the legal minimum requirements for public input was not going to be enough to satisfy the public's concerns. The difficulty lay in the fact that the Inverness Forest has a number of tourist operations (both remote and road accessed), cottages, and lakes which were fished primarily by the residents of Foley. MNR said it felt like "the meat in the sandwich, with SFP on one side and tourism on the other".

The idea of a stakeholder committee was discussed by the planning team, but was discarded for two reasons. First, the team did not feel that the committee idea would be supported by the community of Foley and the other stakeholders. Second, a nearby MNR district had recently tried to use a stakeholder committee to develop a timber management plan and it was a disaster. People could not agree on issues, there was a poor turnout at meetings, and a high turnover of members. So the Inverness Forest planning team decided not to use a stakeholder committee.

Because MNR and SFP had been managing the Inverness Forest for many decades, they had a good idea who the stakeholders were and what their concerns would be as the plan was developed. The biggest concern among stakeholders was the location, size and timing of timber harvests. The SFP forester commented that as soon as people hear the word "cut", they immediately panic and feel threatened. They feel as if they don't have control over the situation and that the cut will begin the next day in their backyards. The planning team knew that the required open houses were not effective for gathering

concerns from people. Therefore, it decided that planning team members themselves would go out and contact concerned stakeholders personally.

The team identified as many concerned individuals and groups as possible and went out to visit them. Each meeting with individual stakeholders was attended by at least one MNR and one SFP representative. A record of the discussions at each meeting was kept so that everybody knew what the concern and agreed-upon solution were. The planning team quickly realized that the meetings focused on very specific, local issues with individual stakeholders; they were not having to deal with provincial groups such as the Ontario Naturalist's Union or the Ontario Sportsmen's Federation because such groups were not well established in the Foley community. An additional observation was that it often took several meetings with individual stakeholders to reach agreement. It was a long process for staff of both MNR and SFP, but the Inverness Forest TMP process was by all accounts a success.

The success lies in the fact that the planning team realized it could not rely on the traditional public involvement process in forest planning - it had to expand the sources of input. The team considered carefully the forest and its stakeholders, and weighed the possibilities of a stakeholder advisory committee. A conscious decision to initiate individual negotiations with each stakeholder allowed specific and local concerns to be addressed before they erupted into conflicts.

Case 4 - Building A Lake Management Plan

Jefferson Lake is a major waterbody located about 130 km from the city of Enright in northern Ontario. It has a long history of human occupation and use. The lake has regional significance for fishing (both commercial and recreation), cottaging, camping and tourism. In addition, the watershed is important for

fur, timber and mineral industries. The land in the Jefferson Lake area is owned primarily by the Crown. However, private lands for cottaging and tourist establishments, and the Jefferson Lake Indian Reserve, also exist.

Due to the variety of uses and opportunities available at the lake, many users are competing for the resources of Jefferson Lake and its surrounding area. As a result of these competing uses, MNR began preparing an Integrated Resource Management (IRM) Plan which would address the management of all Crown land in the identified planning area. In the past, there had been no serious conflicts in the Lake area, but with the number and variety of users increasing, a significant conflict was certain. It was hoped that the creation of a 20-year IRM Plan with public input would reduce the number and complexity of conflicts.

Plan development began with MNR producing and distributing a "Background Information and Planning Options" document. To have more effective public participation in the Plan development, MNR tried something new and proposed the establishment of a "Planning Committee". The Committee was to consist of representatives from public recreationists (e.g., fishermen, Crown land campers, day users), cottage owners, operators of commercial establishments, MNR and other identified interest groups. Nomination forms for the Committee were sent out with copies of the Background Information document. The forms asked for such information as: association with Jefferson Lake; years visiting the lake; activities participated in while at the lake; affiliation with clubs, groups or organizations; and why the nominee would make a good candidate for the Planning Committee. By the deadline, MNR received 28 nominations representing 18 candidates (some individuals received more than one nomination).

On the nomination form it stated that "MNR Enright District Manager will select the representatives from

those nominated and others that he feels will contribute to the planning of Jefferson Lake". Prior to the selection of Committee members, MNR had determined the desired number and affiliation of the Committee members as: two cottagers, two resort owners, one Regional Development Association representative, one lake visitor, one from the Jefferson Lake Native Band, one from the Tribal Council, one from MNR, plus the District Manager as Chairman.

To assist in choosing individuals for the Committee, selection criteria based on nominee's responses to the questions asked were developed and applied by MNR. When selections were made, the Committee had good representation from the intended groups but one commercial fisherman was included for better balance.

The Committee's terms of reference were drafted in advance by MNR. However, once formed, the Committee provided input on the terms of reference and changes were made. The Committee also elected a Co-chair. The terms of reference included three sections: Mandate, Administration and General. The Mandate section outlined what the Committee as a whole was to do. The Administration part described how the Committee would function overall. The MNR Enright District Manager was the Chair and would only vote to break a tie. Minutes of meetings were to be kept and available for public review at the MNR office. MNR would cover the costs associated with meeting facilities. Travel costs to attend meetings were the responsibility of the individual members, but MNR would attempt to provide transportation for meetings outside of Enright. The location of meetings was determined by the Committee at the first meetings.

The General segment of the terms of reference outlined in more detail how the Committee would function. Employees of the MNR were to be available to the Committee as resource advisory persons. All options developed by the Committee

had to be legal and within existing MNR policy. Recommendations having direct funding implications were subject to Government approval, and all plan options had to maintain or enhance the quality of the natural environment.

Once the Planning Committee was established, it became evident to MNR that an education and information phase would have to be added to the planning process. If the Committee were to make sound management decisions, members needed a greater knowledge of the natural resources of the area, resource management techniques, issues and planning procedures. Various MNR resource personnel were brought into meetings to provide such information. As the Committee learned more about Jefferson Lake and the surrounding area, members concluded that the fishery was the major concern for the lake.

Six Planning Committee meetings were held over an eight-month period, and covered both educational and decision-making topics. MNR staff wrote the preliminary and final Lake Management Plans based on the direction given by the Planning Committee. It was noted by MNR that some problems emerged within various levels of MNR with respect to the Plans. It seemed that some MNR staff had problems with the fact that the Committee was essentially making management decisions and not just making recommendations. However, this problem did not adversely affect the Committee's work. As long as decisions made by the Committee were within MNR's mandate and not against policy, they were supported.

MNR felt that the benefits of using a Planning Committee were abundantly evident during the public open house displays of the Preliminary Plan. Committee members worked with MNR staff by guiding the public through displays and answering questions. The public seemed much more receptive when management options came from a fellow citizen as opposed to a government representative.

The open house held in a local shopping mall was successful. MNR and the Committee thought the new approach was successful because people were more inclined to visit a shopping mall rather than a government office or a hotel. A low public response rate to the Preliminary Plan suggested that the majority of lake users were satisfied with the plan. Members of the Committee reported that the public was sceptical but positive about this unique planning process because it was so unlike MNR to share decision-making.

Based on public input, the Committee developed a Final Plan which was accepted and implemented. In addition, the Planning Committee suggested that its members continue their involvement in lake management through the creation of an Advisory Committee. MNR accepted the suggestion and an Advisory Committee, composed initially of members of the Planning Committee, was formed. The terms of reference, membership rotation and administrative details of the Advisory Committee were worked out by members of the new Committee.

MNR recognized the advantages and disadvantages of using this Planning Committee approach. The advantages included: all user concerns were addressed and not just those of the outspoken interests; user groups worked together and in doing so began to understand the concerns and interests of other groups; it allowed for a continuous flow of information between the public and the MNR; positive media coverage was generated; the public was more receptive to management decisions when they were involved; and, it enabled MNR to educate the public on MNR programs and planning procedures. The disadvantages noted by MNR included: it took more time to develop the Plan; extra work from MNR staff was required to "educate" the Committee members; and, there was a potential for the Committee to make decisions which MNR did not favour. MNR also noted that this type of process may not work in all planning situations, especially when views are strongly opposite.

Case 5 - A Timber-Management Moratorium

The declaration from the remote-tourism industry to the forest-products company was very straight forward: "If you don't honour our request for a permanent moratorium on timber harvest within 3 km around our lakes, we will take this to the EA Board or to court!" The FMA forest was the Albright Forest, and the FMA holder responsible for the upcoming TMP was Acme Forest Products. This conflict was nothing new; it had been smouldering and flaring up for several years, and the local MNR representatives had been getting heat from all directions. The difference now was that the heat was intense because the next 5-year TMP was coming up for approval. The complaints from the tourism operators were unanimous: "Timber harvesting is unsightly, noisy and bad for wildlife. The roads needed to haul the timber out give local fishermen too easy access to our remote lakes".

The local sportsmen resented the virtually exclusive access to hunting and fishing held by the tourism operators. The sportsmen had previously accused MNR of favouring the tourism operators by barring access to publicly owned tourism lakes. In addition, MNR was blamed for mismanaging the fisheries in the accessible lakes. The forest-products industry, like the tourism operators, was just trying to stay in business, and perhaps even earn a profit. The problem was that both interests needed trees but they needed them in different places: one needed them in a mill, and the other needed them in the natural landscape.

Acme Forest Products held the FMA but let a contract to Brockway Inc. to cut sawlogs for Brockway's sawmill in the nearby town of Winchester and supply Acme with fibre for its pulpmill several hundred kilometres away. Brockway Inc. employed about 130 people in the sawmill and woodlands operations, which made it the biggest employer in the area. Brockway Inc. depended on the sawlogs of the Albright Forest, and

the forest inventory suggested there would be enough logs in the forest to supply the mill for 15-20 years. However, if the timber-harvest moratorium around each tourism lake as requested by the tourist operators were to be honoured, the Brockway mill would be out of sawlogs in about five years. If the mill could not get its logs from the Albright Forest, it would be forced to close, move operations, or search for a supply of logs from somewhere else. The latter two options were very unlikely ones, being far too costly.

To try and deal with these conflicts, the Albright Forest TMP team included a representative of the local remote-tourism industry. In the past the remote-tourism operators and the forest-products companies had been able to work with each other and keep their distance in the forest. Now, however, the situation was coming to a head, as both sides realized that the distances of the past were gone. The planning team members knew the conflicting views and demands should have been addressed and planned for in the past, but they were not, and now the conflict was their problem. The TMP Steering Committee hired an outside consultant with a knowledge of forest conflicts to make an assessment of the situation and provide recommendations. If the Committee had tried to implement a structure under the direction of MNR, such as an advisory group, to resolve the impending conflicts, much damage would have resulted. Reasons for this include, first, that MNR was mistrusted by most stakeholders. Second, the risk of failure was too high, given that the stakeholders had spent a number of previous years mistrusting and misunderstanding each other. Third, Acme Forest Products was not about to be threatened by the tourism operators. Acme needed the wood around the lakes in question and was confident that any request for an EA would be denied. In summary, the conflict was maturing, but some parties seemed not yet motivated enough to come to the negotiating table.

The consultant's report confirmed for the TMP Steering Committee the nature of the conflict, how the stakeholder groups felt about each other, and how much mistrust was present. The problem was clearly one of disturbance to lake-based remote-tourism businesses by public road access and clearcut timber harvests coming closer and closer to the tourism lakes. The tourism operators of the area said they had lost business because (a) local fishermen were gaining easy access to the designated remote-tourism lakes from logging roads and damaging the fish stocks, and (b) the landscape around the lakes was made unpleasant through clearcutting which their clients did not want to see. The consultant identified the needs of four key parties who would be directly affected by activities in and around the Albright Forest. The tourism operators needed a forested landscape that showed few signs of timber management (e.g., roads, clearcuts). They also needed access into the tourism lakes to be very difficult (e.g., a long distance either by foot or canoe) or expensive (e.g., by an airplane). The Brockway sawmill needed sawlogs and the Acme pulpmill needed fibre. If these mills were to continue operations, they needed to harvest some of the softwood in the proposed 3 km moratorium area proposed by the tourist operators. The hunters and fishermen of the Winchester area (represented by the Winchester Rod and Gun Club) needed good opportunities for fishing and hunting in the local area. Lastly, the people of Winchester (represented by the Winchester First Nations and the Winchester Economic Development Committee) needed stable economic opportunities through a sustainable supply of natural resources.

The greatest value of the consultant's report was in the options and recommendations for attempting to resolve the conflict. During the formal timber-management planning process, several options were available:

1. Any party could request an individual Environmental Assessment under the Ontario EA Act.
2. Any party could appeal to the courts of Ontario for a ruling in its favour.
3. The parties could let the bureaucratic process run its course, and deal with any undesirable outcomes later.
4. The parties could ask for interventions by Members of Provincial Parliament, particularly Ministers of the Crown.
5. The parties could ask for local negotiations to try to resolve the dispute themselves.

In theory, the stakeholders favoured local negotiations. Some stakeholders wanted negotiations to begin immediately; others were reluctant, not because they didn't want the conflict resolved, but because they were not sure what they were getting into. About four months after the consultant's assessment of the situation, most parties seemed ready to enter into some form of formal negotiations. A facilitator was retained to help the parties design a process for negotiation, and then help them to implement it.

The first step the facilitator took in the negotiations was to telephone each of the stakeholders and arrange a one-to-one meeting to discuss their interests and position regarding the Albright Forest. The next step was a meeting of all the stakeholders which focused on the process for the negotiation. The facilitator explained about processes they might use, developed some ground rules and tried to let the stakeholders feel comfortable with him. The facilitator agreed to keep records of all meetings and progress and provide participants with copies of this material. The group agreed to attempt to make all decisions through consensus. The media would be made aware of the group's progress through the

facilitator. A timeframe for the negotiations was established and a deadline related to preparation of annual timber operating plans, about eight months into the future, was agreed to.

Initial progress in resolving the dispute was like a rollercoaster ride, with lots of ups and downs. Ultimately, stakeholders started lowering their guard, asking questions, listening and gaining a new understanding of the Albright Forest and those who depended on it. As the negotiations progressed, it became clear that not all groups of the same interest wanted the same thing. Many of the remote-tourism operators wanted different things, and they needed an opportunity to express these differences. It would have been wrong to assume they all wanted the same thing just because they were all tourism operators.

A major problem throughout the meetings was the inability of the group to come to an agreement on a definition of "traditional access". Without an agreed-upon definition, the tourist outfitters were unwilling to talk about harvest allocations and the rod and gun club was reluctant to give up use of remote-tourism lakes. It seemed that just when the groups were making steps forward toward resolution, something would come up to set things back. The most common thing that kept setting the process back was a return to mistrusts and broken agreements of the past. At several points the negotiation seemed to be more of an exchange of accusations and pointing of fingers for past activities than a look into the future.

As the deadline approached, the facilitator decided that future meetings of the whole group would be pointless and perhaps more damaging. Instead of meetings, the facilitator asked each group to reply to three substantive questions dealing with access. The objective was to have each group put forward a firm position according to a common framework and to see if there was any common ground for the groups to work from. The groups responded and the facilitator concluded that there was not enough common ground and that continued negotiations

would be hopeless. The bottom line was that the groups had gone as far as they could towards a negotiated agreement - differences between groups ran too deep for a solution to be found.

Following the breakdown of negotiations, the facilitator filed a report to the parties. The report outlined the background of the conflict, reasons why the negotiations failed, the progress that was made, and some thoughts as to the future of the conflict. The most important part of the report was the reasons why the negotiations failed. Ten points were outlined as to why the group could not reach an agreement within the specified timeframe.

1. The short-term impacts on each party of reaching an agreement were sufficiently different that progress was blocked. In other words, the timber groups would run the risk of a wood-supply shortage if an agreement in the short-term was not reached. On the other hand, the tourist operators would have a short-term gain as long as the moratorium on harvesting in the 3 km zone was in place.
2. The parties had too long and strong a history of tense and mistrustful relations. This led to scepticism about the potential success of the negotiation. The facilitator went on to say how shocked he was at how participants addressed each other in unfriendly and unbecoming ways.
3. The disagreements among the parties were too deep and fundamental to be resolved through negotiation. The facilitator was confident that acceptable solutions could have been found but the group was unwilling.
4. The negotiations were severely hampered by the poor quality of information with which to estimate the impacts of management alternatives. Some participants seemed not to understand that such assessments require predictions into the future, and that predictions

about the future can only change if one's basic assumptions change.

5. The facilitator suggested that he might have been insufficiently skilled to assist the parties in designing and implementing a process that could work under the circumstances. More time should have been spent on process design, scoping of the issues and establishing the information base. More time working with each group individually would also have helped.
6. The negotiations failed to take seriously any future that is different from the past. There was not enough collective commitment to change among the parties.
7. Parties were generally unwilling to search for ways to help other parties meet their needs. They were successful in discovering what each party wanted to take, but could not discover what each party would be willing to give.
8. Parties were at times represented at meetings by alternates. The alternates' participation style and level of preparedness for negotiations were not helpful to progress that built upon previous meetings.
9. While there was a well-established policy for timber management on Crown lands in Ontario, there was no forest-based tourism policy. A tourism policy would probably have been a good reference point on many difficult issues.
10. Some groups did not fully understand the role of the facilitator. Some groups felt the facilitator was there to represent and support their position to the other groups as opposed to being completely neutral.

This exercise failed to result in a negotiated agreement, but in three ways it was a success. First, there was a better understanding by the parties of each other's needs and interests. Second, a better view of the common ground that exists among participants emerged. Lastly, the differences that remain were brought out in the open. The case is a rich source of information about the strengths, weaknesses and pitfalls of facilitated negotiation.

The above cases have illustrated a number of conflicts and a variety of resolution mechanisms. Some were more successful than others. The important point is that there is no "recipe" for resolving natural resource and environment conflicts. Each conflict is as unique as the resolution process attempted.

We turn now to some general discussions about conflicts and their resolution. Chapter 3 deals with the anatomy of a conflict, and Chapter 4 looks at the essential steps of consensus-based conflict resolution. These two chapters should provide insight into why the people in the cases were able or unable to resolve their conflict.

CHAPTER 3 - Anatomy of a Conflict

In this chapter, we want to describe many features of conflicts one should think about before trying to resolve them. Where necessary, the discussion is tailored to natural resource and environmental conflicts, since, as we have shown earlier, these kinds of conflicts have their own peculiar characteristics. We proceed with a question and answer approach.

What is a Conflict?

Conflict is a clash of interests, values, actions or directions, and has been a part of life since time began. Words such as confrontation, struggle, strife, disagreement and opposition often carry the same meaning as conflict. Conflicts may be small-scale and personal, such as a quarrel between spouses. On the other hand, they may be large-scale and public, such as a war or a political demonstration. Conflicts may be anticipated when established interests, values, or directions are challenged through some form of development or change from accepted norms. Conflicts may also be unexpected as in cases such as a kidnapping or surprise military attack. Whether conflicts are small or large scale, personal or public, expected or unexpected, they are a fact of life and the best way to start dealing with conflicts is to understand why they are happening. Only then can we create ways to resolve them and try to prevent future conflicts from occurring or getting out of hand.

Why do Conflicts Occur?

Conflicts occur because each person is an individual who can think and choose as he/she pleases. Since we think and act as individuals, we are driven to

react personally according to our beliefs. Clearly no two people will think and act alike. People see things differently, want different things, have different beliefs, and live their lives in different ways. Basic differences between people and their activities is the reason why conflicts occur. These differences can be compounded by other factors which can increase the possibility of conflicts occurring. Such factors include: a lack of understanding of other people or groups; people working from different sets of information; differences in class, culture or level of education; and old biases, traditions, perceptions, experiences, values and principles.

In public affairs, conflict occurs for a variety of reasons. People often feel the opportunities for communication are limited or non-existent, or they feel ignored or misunderstood and that authorities are not responsive to their concerns. People often do not want to change the way they have been doing things, or they are reacting to authorities and institutions which do not want to change. Sometimes, institutions are changing too fast or not fast enough. Groups, individuals, governments or industries, may create or prolong a conflict to fulfil some hidden agenda or just to gain attention and be heard. Whatever the cause, conflicts in public matters are often the most heated and complex because, in a democratic society, every individual has a right to an opinion.

How Do People Deal With Conflicts?

Before people can deal effectively with conflict, they must come to the understanding that conflict is real and a part of everyday life. Individuals will have both simple and complex conflicts in their lives

depending on how the conflict affects them. The difference between a simple and a complex conflict may also depend on how well an individual understands conflict in general and what approaches are available for resolving conflicts. In addition, an understanding of the mechanics of conflict will give people a better ability to prevent future conflicts.

People deal with conflicts in a variety of ways and approaches will vary from one situation to another. The B.C. Round Table (1991) has identified four ways in which people deal with conflicts:

1. By avoiding or walking away from the problem, usually when the costs (time and energy) of resolving it are perceived to be greater than the benefits that would be received.
2. By relying on a higher authority, such as a government official, arbitrator, appeal board, or court.
3. By resorting to the use of power, such as lobbying, elections, strikes, or civil disobedience in an effort to impose one's will.
4. By reaching some agreement, reconciling interests through collaboration and joint problem-solving.

It is important for people to be familiar with each of these approaches and their positive and negative implications. The options above are not listed in the order they should be attempted. Nor is it suggested that they do not overlap. Sometimes, to resolve a conflict two or more of the approaches might have to be attempted, either one after another or at the same time. For most conflicts, the first attempt at resolution should be through consensus-based problem solving; if this fails, alternative approaches might be used.

What is the Life-cycle of a Conflict?

Most conflicts can be traced through a cycle of emergence, life and, if handled successfully, resolution. Conflicts emerge when something is different than expected or different from the status quo is proposed. When affected people realize that something is proposed or done that they disagree with, a conflict may be born. During a conflict's early life of growing or maturing, significant power struggles between stakeholder groups will become apparent as they each try to get their own way. The conflict becomes mature or ripe when the stakeholders decide individually that the conflict is not going to be resolved unless some formal or informal resolution mechanism is applied and all parties agree to participate.

The length of time it takes for a conflict to mature or ripen is extremely variable and differs from conflict to conflict. It is very important that resolution mechanisms be attempted only when conflicts are ready for them. All parties need to agree to, and be full participants in, a resolution process. A conflict is not mature or appropriate for deliberate resolution processes if any important parties are unwilling to be part of the process. A conflict which is not ripe will be difficult if not impossible to resolve because all stakeholders necessary for successful resolution will not be working on the same level.

Conflict subsides when parties reach an agreement which is acceptable to all and implementable. Conflict disappears when the agreement is successfully implemented.

When is Conflict Good?

Conflict is good when it sheds light on a process or system which is not functioning effectively or efficiently. For example, MNR's timber management planning process has been criticized as being a "reactive process" rather than a "proactive

process". People feel the existing process is neither effective or efficient. When examining a conflict, it is just as important to look at its context as it is the individuals or groups involved. Perhaps the conflict was caused or heightened by some requirement which brings people together in a confrontational manner. If this is the case, the cause of the conflict may lie mainly with the conditions or processes people are forced to work under. Thus, the process and or conditions need to be re-examined. An example of this may be a development approvals mechanism, like EA, which permits only court-style participation for the public.

Conflict can also be good when it weeds out bad ideas or clears up mis-information, misunderstandings or biases from a lack of understanding or past experiences. When individuals begin to understand all sides of an issue and work with a common set of information, they very often see a great deal of common ground. They may find that their disagreements are much less intense than originally perceived. They may realize that if they work together, the conflict may disappear as misunderstandings are cleared up.

One of the most positive aspects of conflict, if dealt with constructively, is that it can lead to creative and realistic solutions. An unfortunate reality of letting tribunals or court-like mechanisms resolve conflicts is that they often consider only three options: the best, the worst, and a middle-of-the-road solution which hopefully pleases the greatest number of people (but certainly not all). Consensus-based negotiation is productive because it allows for an in-depth examination of a variety of creative options. The use of consensus-based decision-making allows participants to explore options without having to commit to them. In addition, if they agree to the solution, they are most likely to support and implement it. By using consensus-based approaches, participants are very often able to discover solutions to their conflicts which are much better than they ever expected.

When is Conflict Bad?

Conflict is bad when it is ignored, or put on the back burner and left to simmer too long. Conflicts left unresolved usually come back to haunt (a) those originally involved or affected, (b) the people responsible for attempting a resolution, and (c) the people who ignored the problem. Let us consider a community as an organism and a conflict as a wound - if the wound is not treated, it will become infected and slowly bring the organism down. An unresolved conflict breeds mis-information, misunderstanding, mistrust and biases. A conflict is bad when it allows higher and stronger barriers to be built up between the involved parties. If existing conflicts are not resolved, it will be nearly impossible to deal with new conflicts.

What Kinds of Conflicts are Out There?

There are as many types of conflicts as there are people in the world. All conflicts have some combination of social, political, economic, spiritual and environmental implications. With respect to natural resources, a useful way of looking at types of conflicts is by examining their sources. Some common sources of conflict are:

1. Government Policies and Priorities (e.g., Ontario's silviculture strategy)
2. Resource Ownership and Land Allocation (land use) (e.g., parkland versus commercial forest)
3. Local Management and Environmental Standards (e.g., allowable effluent discharge levels)
4. Data (e.g., how much actual area is clearcut each year)
5. Interests (e.g., timber harvest versus remote tourism)

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6. Relationships (e.g., trustworthiness)
 7. Resource Management Structures (e.g., timber-management planning process)
 8. Values (e.g., timber harvest in provincial parks)

When assessing a conflict situation, it is important for all parties to understand what kind and scale of conflict they are dealing with. Otherwise, groups could be arguing about several different things, with no clear direction.

How Can Conflicts be Resolved?

There are several ways in which a conflict can be prevented or resolved. However, there is no "off-the-shelf" approach which can be applied to all conflicts. The causes of each conflict and the groups and individuals involved are unique for each conflict, so the way of resolving the conflict must be custom designed. Chapter 2 outlined methods of preventing and resolving conflicts, such as negotiation and advisory groups, both of which have been used successfully in Ontario. In general, there are five conditions which must be met before a conflict can be resolved:

1. all involved parties must want to resolve the conflict;
2. a common set of data or information must be developed and used by all groups;
3. a common set of ground rules must be developed for addressing the conflict;
4. the groups must be willing to talk and listen (listening is just as important as talking); and
5. the needs of the parties involved need to be met.

Communication among individuals and groups is the only way to resolve conflicts properly!

Do Conflicts Ever Go Away?

Conflicts in general will never go away; they are a part of life and we are stuck with them. Specific conflicts may disappear once they are resolved, or they may be resolved for a time and will have to be re-visited in the future. Highly complex or controversial conflicts may be resolved for only a short period of time or not completely resolved but worked down to a manageable size. Whether a conflict goes away is dependent on the type of conflict, its complexity, and the quality of the resolution process applied. The better the resolution process applied, or less complex the conflict, the better the chance the conflict will be resolved. One thing is sure - a conflict which is not resolved is unlikely to go away. Indeed, it will only get worse. And conflicts which are left or ignored for long periods of time will be harder to resolve. On the positive side, conflicts can be an effective way of ensuring that the systems and processes of decision-making in our society work effectively and fairly.

Why Does Conflict Persist?

Conflict persists because society and the economy are constantly changing. As society changes, so do governments, and with them the political agenda. Government policies and processes change to reflect the demands of the people. Not everyone agrees with these changes, so conflicts persist. For example, twenty years ago environmental conflicts were relatively few and far between. Now, however, they are in the media and public agenda almost daily. Population increases, scientific and technological advancements, globalized mass media and world trade are products of an evolving society, and one of the by-products of this evolution is persistent conflict. Conflict and taxes are similar -

they will never go away, so we have to learn more creative ways of dealing with them.

Who Owns or is Responsible for Conflicts?

There are actually two questions here - who caused the conflict, and who is responsible for attempting to resolve it? The causes of a conflict are numerous and may or may not be related to an individual or group. Conflicts could be caused by the processes people are forced to work under, mistrust, misinformation, misunderstanding or past experiences. However, conflicts could also be caused by some new change or proposed new development or activity. It is more important to identify and acknowledge that a conflict exists and attempt to resolve it than it is to point the finger at the responsible party.

The person, group or organization which is responsible for resolving a conflict will depend on the conflict itself. It could be a government agency, the proponent of a development, an interest group, or a landowner. Whoever is responsible for the resolution, it is up to anyone concerned or affected by a conflict to identify the responsible body and call for a resolution process. If you are involved in a conflict, you are responsible for a resolution and you can make a difference if you use the opportunity constructively. As the saying goes, if you are not part of the solution, then you must be part of the problem!

Who is Involved in Resolving a Conflict?

Identifying who should be involved in resolving a conflict is such an important step in attempting resolution that it should be given much time and careful thought. Generally, as the conflict becomes more complex or large-scale, the number of interested stakeholders will increase. The B.C. Round Table (1991) states that "regardless of

(a conflict's) complexity, the better the representation of interests, the better the achievement of public confidence in the process and public support of its results."

The B.C. Round Table (1991) also divides the task of identifying participants into two parts: "identifying the *interests* and then identifying the appropriate *representatives* of those interests. The interests are the stakeholders and a general rule is to involve two types of groups and individuals: those who are essential for making the resolution process work, and those that have enough power to stop the process or block the implementation of an agreement. Aside from these "essential" parties, it maybe helpful to include interested individuals who are respected or knowledgeable about consensus-based decision-making.

The representatives are the individual(s) who will represent each of the interests in the negotiations. In some cases, it may be appropriate for the representatives to be chosen by the organization (e.g., a government agency) which is organizing the resolution process. Another way to select representatives could be to ask each of the stakeholder groups to select and send their representatives. Regardless how the representatives are selected, it could be useful to select "alternatives" who could be called upon if one of the representatives is unable to attend a meeting.

In addition to the stakeholder representatives, a facilitator or mediator and resource people may also be retained to help see the resolution process through to completion.

Many of today's conflicts deal with local problems but are of interest to people and groups who live and work far from the conflict area. For example, a provincial or national interest group may want to become involved in helping resolve a conflict which is focused on a remote area of the province. When this happens the conflict can deepen because

the residents living and working in the area every day may feel unduly pressured by groups or individuals who live far away from the conflict. Whether far-away interests should be represented at a negotiation table is a decision local stakeholders must make when a negotiations group is being formed. One way to solve this problem is to look for a local resident who is a member of the larger interested organization. Perhaps this person could act as the organization's representative, or at least present the organization's views and ideas to the stakeholder group. On some cases, it may be sufficient just to keep the large organization informed of discussions and progress of the negotiations. In whatever way large interest groups are dealt with, they cannot be ignored if they insist on being part of conflict resolution.

Who Should Pay for Resolving a Conflict?

In most conflict resolution processes there will be a variety of stakeholders with a range of money available to them for participation in the process. Some stakeholders will have no money available to them, and will have to take time off work and pay for expenses out of their own pockets. Other stakeholders may be paid to be part of a negotiation but will have to cover their own expenses. At the other end of the spectrum, some stakeholders will be paid to participate and will have their expenses covered by the organization they represent. Aside from personal expenses, the group or some party may have to pay for meeting facilities, photocopying, postage or the cost of a mediator or facilitator. Conflict resolution is not cheap, but the short-term costs of resolving a conflict will likely be much less than the medium or long-term costs of an unresolved conflict.

The questions of who pays for what, and whether participants will be paid for their time and expenses, must be decided when the terms of reference or ground rules are developed. How a resolution

process is funded will vary from conflict to conflict. If a stakeholder group needs to be at the table but cannot afford it, there should be a means for the group's costs to be covered. However, if a stakeholder group demands that representatives be paid to attend the negotiation while other stakeholders are not being paid, the real interest in the conflict or motivation of the demanding group needs further consideration.

Are There Simple and Complex Conflicts?

A complex or strong conflict will generally contain a large number of groups and individuals conflicting over a variety of topics and issues and will usually take a longer time to resolve. In addition, because there are a number of issues being addressed, there is greater uncertainty as to whether such a conflict can be fully resolved. A simple conflict will have fewer stakeholders discussing a narrower range of topics.

What might appear at the outset to be a simple conflict can often escalate into a complex conflict with the addition of factors such as extensive media coverage, related issues, powerful lobby groups, or entrenched, value-based positions. Groups unwilling to accommodate the interests of others can easily turn a simple conflict into a complex one. Some mediators and facilitators suggest that it is easier to deal with complex conflicts because there are more people involved who can contribute creative solutions. Also, because there are so many topics discussed, there is room for give and take by the parties.

What is the Role of Mistrust in Conflicts?

Mistrust is one of the most common reasons why conflicts are not resolved. Very often mistrust is caused by unpleasant past experiences, biases, or misunderstanding. If a conflict is to be successfully

resolved, much work must be done at the outset to build trust and trusting relationships. The stakeholders involved must also trust that the process being undertaken to resolve the conflict will be successful. Without trust amongst the interested parties, there is little chance of effective communication and successful resolution.

In addition to mistrust, the fear of the unknown can have an impact on a resolution process. When stakeholders are faced with a conflict today, they may be unfamiliar with the concept and practice of consensus-based decision-making and unsure of who the other stakeholders are and what they want. More importantly, stakeholders may not have any idea of the outcome of the conflict and how it will affect them. Participants need to keep in mind that other stakeholders will be feeling the same fear of the unknown. The best way of overcoming the uneasiness is to talk, ask questions and listen. The fear of not knowing the outcome of a conflict can be addressed by participating in a consensus-based resolution process and helping to shape the solution.

Can All Conflicts be Resolved Amicably?

When people come together to resolve a conflict, they are not there to apologize and become everlasting friends; they are there to get what they feel is a fair deal. The goal of conflict resolution is to come up with creative and realistic solutions which all stakeholders can accept or live with. If people walk away from the resolution process angry with the results, then the process was not successful and they should not have agreed to the settlement. Through communication and trust building, a level of respect and understanding for all stakeholders at the table can be built. This removal of barriers will take time, but in the end it is necessary for a successful and amicable resolution of the conflict.

How do You Assess Your Conflict Situation?

It should be obvious to most groups and individuals if they are part of a conflict. A reduction in social, environmental and or spiritual freedoms (to mention only a few) is a good indication that you may be involved in a potential conflict situation. Once you find you are in a conflict, it is important to identify the reason for the conflict, identify the other stakeholders involved, and determine, with them, how to initiate a resolution process. In general, the more affected individuals or groups are in a conflict, the faster they will move in initiating a resolution process. If you are the only one to admit you have a conflict but you feel that other stakeholders should be concerned, check all your background information thoroughly to make sure you are working from the same data as are other stakeholders. If you feel your information is correct, contact other stakeholders to make sure they know about the situation. Try to avoid second- and third-hand information, for you have no idea if it is true. If you have a question, go straight to the people you feel should have the correct answer. If you feel that you are entering into a conflict, the chances are that someone else feels the same way about the same situation. Take action to explore the potential further and if need be, take action to resolve the conflict as soon as possible.

What is the Cost of Unresolved Conflict?

It is impossible to put any type of measurable value on an unresolved conflict. People involved in an unresolved conflict will suffer in a variety of ways and will continue to suffer until a solution is achieved. In small communities there is a human cost to unresolved conflict - people in conflict must work much harder to live, work and play together in the same community. Towns, cities, provinces and countries will also suffer effects of unresolved conflicts as people become more and more polar and entrenched in their views as conflict lingers. Unresolved conflict most certainly leads to more

complex and deeper conflicts.

Another cost of unresolved conflict is wasted or lost time. Much time is wasted when people do not work together constructively to resolve their conflicts.

Unless one is hired specifically to deal with a conflict, one's time (and money and energy) is much better spent with family, enjoying leisure activities or fulfilling one's career. Two examples best illustrate this point. A tourist outfitter should be spending time generating more clients, maintaining facilities or operating the business, not all wrapped up in unconstructive and disruptive conflicts. Similarly, a government forester should be out in the woods managing the forests, not playing referee to conflicting parties.

What are the Limitations of Consensus-Based Decision-Making?

A functioning society needs a variety of mechanisms for resolving conflicts. As stated earlier, consensus-based decision-making is only one approach. Most successes with consensus-based approaches have been with resolving local disputes. However, in the United States, and increasingly in Canada, conflicts of much greater magnitude are being resolved.

Conflicts which are about fundamental differences in values or about broad-based issues may still have to be resolved at the political level. However, large-scale conflicts most often start as local conflicts. The application of conflict prevention and resolution mechanisms at an early stage may prevent local conflicts from escalating to the point where resolution must be through political decision. As people become more comfortable, knowledgeable and experienced with consensus-based decision-making, larger and more complex issues can be resolved using this approach. A promising example is the new Canadian Environmental Assessment Act which specifically outlines opportunities and requirements for the use of mediation.

Time is another limitation of consensus-based decision-making. Sometimes decisions have to be made within a short timeframe; this might prevent use of a process such as consensus-based decision-making. Often these decisions are unstable and break down. Consensus-based decision-making approaches take time and generally the more complex a conflict is, the more time the process will take. This is not to say that timeframes are not important in a resolution process. While setting out the ground rules, a group should set a date when a solution should be reached. Also, a series of milestones or progress points to help get the group to the deadline should be agreed upon.

Stakeholders may have different reasons for timeframes. Some parties may use them to move the resolution process along to meet some sort of commitment. Other parties may use them to delay the process. Timelines are critical to a resolution process and they need to be agreed upon at the outset of a negotiation. If people feel the timelines are unreasonable, they will feel pressured and lose confidence in the process.

How Do You Deal With Smokescreens or Hidden Agendas?

Negotiating with individuals or groups working with smokescreens or from hidden agendas can be frustrating. Such individuals or groups confuse, muddle or detract from the process, and challenge the patience and tolerance of other negotiators. In some cases, they could cause the breakdown of the entire negotiation. For people or groups working from hidden agendas, the breakdown of negotiations could be their true agenda, and facilitators, mediators and negotiators should watch out for this.

In the early stages of a negotiation, it may be possible to determine if a person or group may be working from a hidden agenda by looking at the organization represented. Most large organizations

publish and distribute information about themselves and what they stand for. If you feel that a negotiator is not living up to what the represented organization stands for, let the person know, or ask the mediator or facilitator (if one is being used) to explore the matter further.

Another way hidden agendas can be discovered is through one-on-one meetings between the mediator/facilitator and individual groups. A neutral and fair mediator/facilitator will bring hidden agendas he/she has discovered to the attention of the other parties either directly or indirectly.

It may also be possible to detect hidden agendas when approaching an agreement. The B.C Round Table (1991) notes two rules that negotiators should be expected to use when disagreeing with a proposed decision. The first is "that the participant should be responsible for demonstrating clearly that the item at issue is a matter of such principle that he or she cannot accept the decision". The second rule is that "he or she must clearly show why and how he or she would be specifically and differentially impacted by the proposed decision". If a participant cannot fulfil either of these rules, the B.C. Round Table (1991) suggests that "the party would be expected to "live with" the proposed decision or withdraw from the consensus process".

An additional consideration is that a "dissenting party" may be working from a hidden agenda. Don't forget, however, that many people and organizations in Ontario are new to the concept of formal negotiations and may "hold their cards close to their chest." Be careful not to confuse people who are new to the negotiation process with those who have hidden agendas.

Why Should I Want To Use Consensus-Based Decision-Making?

There are three reasons: (a) it could be in your best

interest; (b) decisions that could affect your job, your business, your peace of mind, your hobbies, or all of the above, ought to be shaped by you; and (c) consensus approaches can give way to other avenues if things do not progress well. A consensus-based approach to decision-making not only enables groups to come up with creative solutions, but it is the best way to resolve a conflict once and for all. This will not only prevent headaches and aggravation in the future, it will save time and money. It is not difficult to estimate how much time and money it would cost to be part of a consensus process. However, it is almost impossible to estimate the costs of continued conflict, or decisions by higher authorities. In consensus processes, one at least learns things about the other parties which could be useful in preventing future conflicts.

People might refuse to participate in consensus approaches to conflict resolution for legal reasons. Some parties feel that they have the legal right to use "their" natural resources as they have in the past. They become confident that an EA Board or a court would rule in their favour, and they therefore will not participate in a consensus approach for resolving the conflict. While this may be true in some cases, public pressure and increasing demands on our natural resources are forcing governments to look at new alternatives for making decisions. One approach could be mandatory mediation (as in the Canadian Environmental Assessment Act), with a court hearing as a last alternative.

One final incentive for participating in consensus-based decision-making is that of image. If all the other stakeholders are willing to give consensus a try and you are not, you had better prepare for bad press and possible alienation from future negotiations.

These are only a few reasons why you should want to attempt consensus-based decision-making when resolving conflicts. It is proven effective, efficient and successful. There is much interest in this approach and it seems to be the way of the future.

CHAPTER 4 - Resolving Conflicts: The Essential Steps

We emphasize throughout this document that there is no "off-the-shelf" approach to resolving conflicts. Each conflict is different and therefore requires a unique approach to resolution. The material presented here is important because it outlines the essential steps of a consensus-based approach to resolving a conflict. The concepts outlined below can help people develop and implement successful resolution processes of their own.

This chapter assumes that a consensus-based decision-making process is appropriate for a given conflict. This is not to say that it will work, but rather that the interested parties see it as their best option. Regardless of which mechanism is used to prevent or resolve a conflict, it is important that much thought and consideration be given to the structure or framework of the process. The chapter looks at how to develop and address both process and substance, how to integrate the substance of a conflict into the process, and some of the realities faced when creating conflict resolution forums.

"Process" refers to how the resolution mechanism will work and help the parties (and the mediator, if one is being used) to begin a negotiation. The process specifies the expectations and responsibilities of the parties and the mediator. The process is often referred to as the "ground rules". These are developed and agreed upon by all the parties and must be established prior to the group addressing the substance of the conflict. "Substance" refers to the causes of the conflict, the issues that need to be dealt with, and the things the involved parties will implement following an agreement. It is vital to separate process from substance in a resolution process. In addition, success can be achieved only when matters relating to the process be developed

and agreed upon by all parties before any matters of substance be addressed. In other words, the "how" of the resolution process must be determined before dealing with the "what".

Building The Process

Building the process is the first and most important step in resolving a conflict. If the process is not created and agreed to by the interested parties, or if only partially established, it will be difficult, or impossible, to discuss and come to consensus on the issues of substance. Many professional mediators agree that a prime reason for the failure of consensus processes is that the parties do not have a clear understanding of the process itself. A common analogy (Cormick, 1989) to the development of process or ground rules is that of establishing a common set of rules for an international football game. A Canadian team would otherwise play by its rules, an American team by its own, and so on.

The person or group responsible for initiating the process should be decided by the interested parties. In most natural resource conflicts in Ontario, it is usually the responsibility of a government agency to identify and bring together the appropriate parties. Prior to meetings of all the parties, it should be clear to the organizer who the other parties want to develop the ground rules. In fact, it should be agreed prior to any meetings of the parties who will be responsible to lead the group in developing the ground rules. Sometimes the government agency that brings the groups together should be the leader. Other times it is agreed that an outside facilitator or mediator be brought in. Regardless who is

responsible, each party must agree to the organizing person or agency and each party must be a part of process development.

Once parties are brought together, specific issues of process can be addressed by the group. This may take one or several meetings. Some of the questions that might be considered (taken from Sigurdson, 1992) include:

1. The Parties

Who has expressed a desire to be at the table? Are there other parties who may have an interest in the outcome or whose participation may be necessary to the effectiveness or enforceability of any agreement reached? Should they also be at the table? If not at the table, who, if anyone, should be kept "informed" of the progress of negotiations? If so, who is to do the "informing" and how will it be done? Can other parties join the process after it has started?

2. Purpose

What purpose do the parties seek to accomplish? In other words, what are the issues in dispute? Can other matters be added at a later time by mutual agreement of the parties?

3. Timetable and Duration

Is there an estimate as to the potential length of time the process will take? Should this be expressed in the ground rules? Should there be a cut-off date after which any party may withdraw? Or, may any party withdraw at any time? Should the parties be able to revise initial time expectations by mutual agreement, and should the parties commit to a specific re-assessment of the target period some days prior to it being reached?

4. Structure of the Process

May additional parties be added at any time upon the agreement of the existing parties? May the parties be represented through counsel, spokespersons, or technical experts? May persons not explicitly designated to participate actively do so at the request of that party and with the agreement of the other parties? May "Working Groups" be formed by agreement of the parties to address specific tasks or issues? Should the composition, scope and operation of those working groups be established by the parties? Can working groups include persons not among those at the table?

5. Scheduling and Agendas

Should an exact schedule of joint meetings for a specific period be established? Or should meetings be held when requested by any party? Or should joint meetings be called at the sole discretion of the mediator or chairperson? Are agendas to be prepared in advance of each session? Or should such topics as the parties want to raise be discussed at any meeting? Is a formal record to be kept of the meetings? Or should the parties or the mediator simply take such notes as they may consider advisable for their exclusive use to assist in recalling the history of their discussions?

6. Relationship to External Interests

Are sessions to be open or closed to the media? Or to the public? Is communication with the media permitted, and if so, on what basis? A prepared press release jointly authorized by the parties? Or at each individual party's discretion? Or solely by the mediator?

7. Confidentiality

Are all discussions (including specific offers, positions, statements) and all documents created for the process privileged and confidential? And further, is it agreed that such discussions or documents cannot be used for existing or future litigation, or any other potential proceedings? Should the parties be required to provide all relevant information? If for a particular reason a party is unwilling to produce a specific document, must it nonetheless provide the substance of the information required in some form? What, if any, role should the mediator play in respect of communications?

8. Role of the Mediator

Why, and when would the parties consider involving a mediator? Should the mediator perform his/her functions for a fixed term or at the pleasure of the parties? What assurances should the parties give to the mediator in terms of the confidentiality of his/her role, and his/her accountability in any subsequent proceedings? Is there to be any restriction on the mediator's right to meet separately or jointly with the parties at such times as he/she may consider appropriate, or as the parties may request?

What is the retainer relationship between the mediator and the parties? On what basis and frequency are his/her accounts to be rendered and paid? Should the mediator be empowered to retain, instruct and or make available to himself/herself and the parties such expert or legal assistance as he/she deems advisable?

9. Agreements

How should agreements be reached? By vote? By consensus? If agreements are to be reached

by consensus, what does consensus mean? What happens if full consensus is not achieved? Is it in the interests of facilitating the broadest possible consideration of options and alternatives that all the suggestions and possibilities will be tentative until full agreement is reached? Is agreement on any single item subject to reaching agreement on a total acceptable package addressing all matters relating to the topics under discussion? Should the parties agree in advance that in the absence of agreement in all issues, any agreement reached should explicitly describe remaining areas of disagreement and the reasons for that disagreement? Should possible means of reconciling such differences also be identified? What, if any, use can be made of such an agreement?

Are there certain issues that should be isolated and dealt with in priority to others? Will agreement on such issues, be independent from, or subject to, agreement on all other issues?

Who should be responsible for controlling the drafting of the text of any agreement of the parties? The parties or the mediator?

10. Compliance and Changes to the Ground Rules

How shall compliance with the ground rules be maintained? Shall each party be responsible for the adherence of its own representatives to the ground rules? What steps, if any, should be taken to ensure adherence?

11. Other Proceedings

Provided the process is continuing, what should be the status of court or other proceedings, whether initiated or under consideration?

12. During the Process

What will happen to on-the-ground-activities (e.g., timber harvest, road closures) during the resolution process? Will there be a moratorium put in place? If yes, for what activities, in what locations, and for how long?

Process development achieves two purposes. First, it brings the parties together and acts as a scoping mechanism to determine whether the parties are committed to a consensus-based process and are willing to proceed with the negotiations. If the parties are unable to agree upon the ground rules, they are unlikely to agree on substantive issues. When this happens, the parties must resort to an alternative mechanism for resolving the dispute. Second, process development leads the parties into structured negotiations once they have developed and agreed to the ground rules. The development of a process is a big step in building communication and trust among stakeholders and should be viewed as a significant achievement.

Establishing the Substance

Once the process has been developed, the substance can be dealt with. The substance is the topic(s) of the conflict and will be unique to each situation and more-or-less obvious to the parties involved. When the substance is being addressed, it may no longer be necessary to use the services of a mediator or facilitator because each party is working from the same set of ground rules. However, somebody should be elected as a Chair for meetings to ensure that things run smoothly and remain within the rules.

Building Agreement

Resolving a conflict by reaching an agreement is much like playing a game. The teams and rules have been clearly defined by the process. It is now up to

the parties to develop objectives and approaches to ensure that they and the other parties reach an agreement they all can accept and live with. A key part of building agreement is to focus on the issues, interests and needs of the other parties rather than specific topics. The book "Getting to Yes" by Fisher and Ury (1981) provides an easy and simple approach to negotiations. Some techniques which can foster win-win agreements are as follows (Cormick, 1992):

1. Identify the essential interests of the parties involved.
2. Establish a common data base for all parties to work from.
3. Develop joint proposals amongst parties and come up with alternatives.
4. Carry on discussions "away from the table" such as over dinner, during a car ride, over the phone, in an elevator, or at a social gathering.
5. Assemble "packages" of proposals rather than working on one topic or issue.
6. Avoid agreeing on a single issue until you have seen the entire package or the whole agreement.
7. Ensure that the people you represent are kept well informed as to the status of the negotiations, emerging solutions and proposals; ensure that you have their support.
8. Know when to stop agreeing. If you are not satisfied with the way things are going, let the other parties know and slow down the process until you feel comfortable.
9. Agree with the other parties on where there are disagreements and what they are.

10. Test the waters with potential agreements. If you put forth an agreement without knowing how parties will react, they could become upset and feel threatened.
11. You must be able to understand and agree with everything the mediator is doing (if one is being used). The mediator works for you, not against you.
12. The use of sub-committees in multi-party, multi-topic conflicts can be very useful and often essential.
13. Know when to stop demanding. If consensus is to be reached, all parties must be in agreement and if your list of demands seems endless, other parties may become frustrated.
14. Look for ways to set a series of deadlines. Instead of a rush to a compromise, a sequence of targets for accomplishing tasks can lead to better solutions.
15. Don't just think about the information you feel you need from other stakeholders; think also about the information they need from you.
16. Don't introduce the "facts" too soon or they may become the topic of an argument rather than the basis for resolution.
17. If you make an error in providing information, correct it immediately. You will receive more respect for correcting a mistake than for trying to cover it up.
18. If a stakeholder is unwilling to acknowledge an agreement publicly, they are unlikely to live up to it.

Realities When Creating Conflict Resolution Forums

Here are some general points to consider when creating or implementing conflict resolution mechanisms (Cormick, 1992):

1. There is probably a lack of a positive, working relationship among the parties.
2. There is no traditional or legislative framework to follow when creating the process.
3. The process could involve many parties with widely divergent structures. Groups make their decisions at various speeds according to a variety of decision-making processes. For example, government works either by vote or by the decision of a single individual such as a Minister. Companies tend to use a hierarchy for decision-making and environmental groups tend to favour consensus-based decision-making.
4. Issues to be dealt with could have long-term, possibly irreversible consequences.
5. Issues based on principles or values may have to be win-lose solutions; don't waste time trying to find consensus.
6. Some parties may have concern that the use of negotiation may be a violation of principle.
7. For some people the issue may be for a "job"; for others it may be for a "cause".
8. The implementation of an agreement may take several years.
9. People come from different backgrounds which affects their impact and influence on the

process. For example, lawyers are trained in confrontational proceedings and taught not to take things personally.

10. The consensus process must be created by the parties, not for the parties.

This is by no means a complete list, and there will be more factors based on the specific conflict in question and the mechanism used to resolve the conflict. It is, however, a good collection of some of the considerations parties need to make when attempting consensus-based conflict resolution.

CHAPTER 5 - Resolving Conflicts: A Framework for Natural Resources and Environment

We have described real-life conflict situations that people might find themselves in, and shown how others have handled these situations with varying degrees of success. We have also presented a wide range of practical tips and considerations for resolving conflicts. We feel it is now important to provide a way of thinking about those situations in the larger scheme of things. The framework below, which is simply one way to organize the concepts of conflicts and their resolution, draws attention to various stages of conflicts, as well as to a range of approaches that are used to deal with conflicts. We suggest how specific approaches are more suited to some stages than to others. Finally, we show how all these approaches and stages of conflict might be pictured together in the overall scheme of resource and environmental management in Ontario.

Stages of Conflict: The Life-Cycle Revisited

In chapter 3, we talked briefly about the life-cycle of a conflict. Let us examine that cycle in more detail here. We find it helpful to think of five stages in the conflict cycle, as follows:

1. Absence - In the first stage, conflict has not yet emerged. Conditions may be developing that will give rise to a conflict, but the conflict itself has not yet surfaced. For example, a forest manager may determine the need to harvest the timber near a remote-tourism lake ten years from now, but for the time being timber will be taken from land far from the lake. The tourism operator may decide to deal with this issue when the time comes closer. Here we see the conditions developing for conflict, but it is still off in the future.
2. Emergence - This is the moment a conflict arises. We might recognize this as the time when normal progress in resource and environmental management is impeded. A resource user might write a letter to a senior bureaucrat complaining about what is happening. A meeting of resource users might turn sour and people leave in a huff.
3. Growth - If the conflict stays alive after emergence, it is likely to grow through a series of events which make it worse. More letters of complaint may be exchanged, people don't talk to each other any more, friendly meetings are impossible, resource decisions are delayed. Things are getting serious. Sporadic demonstrations may occur, perhaps followed by acts of civil disobedience such as road blocks. Media coverage is likely.
4. Maturity - A full-blown conflict is at hand. Media coverage is frequent, politicians are probably involved, local people are bitter, demonstrations and more civil disobedience (such as tree spiking) may occur. Little can happen regarding resource use and management.
5. Agreement and Implementation - On the optimistic side, sooner or later there will be some form of agreement, and people will get on with living and working, and implementing the agreement. If the agreement is flawed or the will behind it is too low, the conflict may revert to an earlier stage of the life cycle and flare up again. If not, the agreement is implemented, the heat of the situation subsides, and the conflict wanes. Regardless of whether the agreement is implemented completely, the

situation will never return to what it was prior to reaching the agreement. Relationships and information bases have changed, usually for the better.

This model of the life-cycle of a conflict has many parallels, both in nature and in resources management. We believe it to be a useful way to think about the kinds of conflict situations people may find themselves in with respect to natural resources and environment.

Approaches to Dealing with Conflict

We have struggled to find a useful way to classify and describe the various approaches people might use to resolve the conflicts they find themselves in. We propose the following four categories of approaches used in dealing with natural resource and environmental conflicts.

1. Official resource planning and administrative decision-making mechanisms - This refers to the established processes to be followed in determining the use and management of natural resources and environment. A good example in Ontario is the timber-management planning process. For each forest-management unit on Crown land in Ontario, a timber-management plan is required every five years. There is a clearly defined process to be followed by the team responsible for forest-management planning. Many conflicts, especially small ones in their early stages, are dealt with in this process. Similar processes prevail in the planning for parks, fisheries and other resources. These processes also have established lines of administrative authority. Thus, senior officials in such agencies as the Ministry of Natural Resources are authorized to make certain decisions if the processes are unable to find agreeable solutions to planning problems.
 2. Formal appeal mechanisms - When participants in regular planning processes find they are unable to reach agreements on resource use, they often can appeal to other decision-making processes for resolution such as the Ontario Municipal Board, the Consolidated Hearings Board, the Game and Fish Board, and the Ontario Cabinet, to name only a few. The best example for natural resource and environmental conflicts in Ontario is the Environmental Assessment Board (EAB). If any stakeholder is unsatisfied with an emerging resource plan, the stakeholder can request of the Minister of Environment that a full environmental assessment, complete with public hearings, be undertaken. If the appeal is granted, then a strictly prescribed process is followed to bring the matter before the EAB. The Board is authorized to decide, at the conclusion of public hearings, whether and how the resource plan can proceed.
 3. Supplementary, local mechanisms - Sometimes local stakeholders and resource managers design and implement their own conflict-resolution mechanisms. This is done to enhance official planning, or in situations when regular planning fails and appeals mechanisms seem unattractive. For purposes here, let us divide these mechanisms into two groups: (a) *structure-oriented mechanisms*, of which various kinds of committees are the most common examples; and (b) *process-oriented mechanisms*, of which various kinds of negotiations are the most common examples.
- The differences between structure mechanisms and process mechanisms may seem small. After all, any committee needs a good process to follow, and negotiation is often used; likewise, any negotiation needs a consistent group of people to work things through, and this group might look much like a committee. However, as we will show later, the subtle

differences are actually quite important. These differences begin to emerge as soon as suggestions are made about how to proceed when conflict arises. Some begin by saying, let's get a committee together to hammer this out. Others begin by saying, let's talk this over with the right people to find a solution.

4. Ad-hoc mechanisms - these include such things as letters and calls to politicians and others in the corridors of power, using the media to gain public favour for a position, and a variety of informal ways of working out deals. They could also include demonstrations and acts of civil disobedience.

Stages of Conflict and Approaches to Resolution: A Merger of Concepts

How might the approaches to conflict resolution apply across the five stages in the life-cycle of a conflict, as previously described? We believe that official planning processes, as we currently have them for natural resources in Ontario, are well suited only when conflict is absent or just emerging. When successful, they lead to *agreement and implementation*. Appeal mechanisms are usually applied when conflicts are in stages of *growth* or *maturity*, and can also result in *agreement and implementation*. Supplementary local mechanisms are most appropriate for conflicts in *growth* and *maturity*.

As shown in Figure 1, *ad-hoc mechanisms* apply all the time during planning and conflict resolution, mainly because they are more-or-less spur-of-the-moment activities undertaken by individual parties or groups. They can feed other mechanisms. *Official planning and administrative mechanisms* seem to work while conflicts are basically absent or just emerging. They give way to either *formal appeal mechanisms* or *supplementary local mechanisms* when conflicts grow and mature.

The local mechanisms may produce results that feed back into official planning mechanisms (e.g., major timber-management plan amendment). Ultimately, though, all mechanisms seek to produce resolution, which means agreement and implementation.

As researchers studying a wide range of approaches to resolving conflicts, we have developed strong personal biases regarding mechanisms for conflicts that are growing or mature. We have little interest in this document in outlining how official appeals mechanisms such as the Ontario EA process work. Such information can be easily obtained from such agencies as the EA Board, Ministry of Environment or Ministry of Natural Resources. We strongly favour people designing and using their own processes for resolving conflicts. We believe that the experiences related in Chapter 2 support our conclusion, and we go into more detail in Chapter 6.

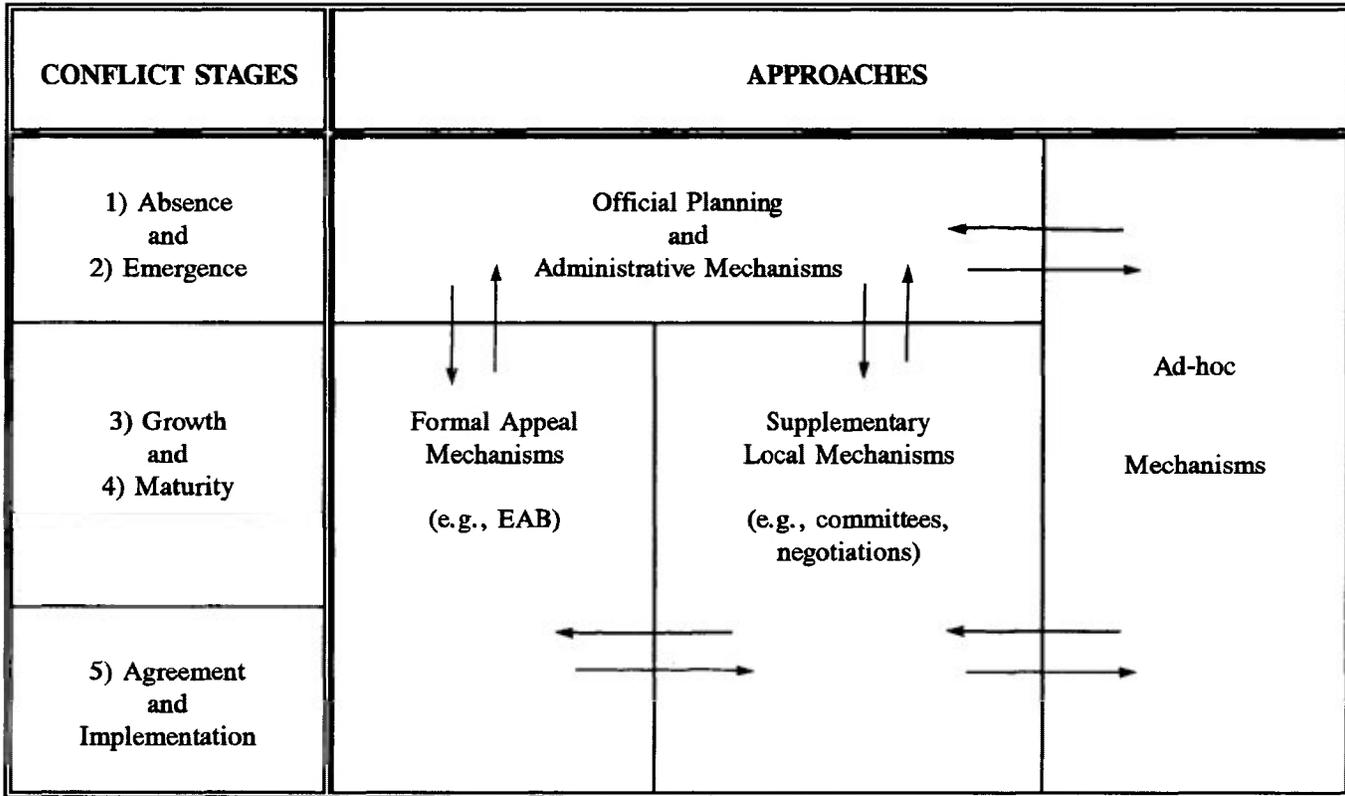


Figure 1. A framework for analyzing conflict resolution in natural resources and environment. The arrows are to be interpreted either as "followed by" and or "feed into".

CHAPTER 6 - Making Progress: Improved Public Participation

Earlier chapters introduced many concepts related to conflicts, particularly those having to do with natural resources and environment. We described a number of examples of how local people worked out their disagreements through means of their own design. Some of these were based on committee structures, while others emphasized different kinds of negotiations. We presented some steps and considerations for building conflict resolution forums, a framework for thinking about the various stages in the life-cycle of a conflict, and the kinds of approaches one might use to resolve them.

A key message of this paper is that improved public participation in decision-making is critical in preventing and/or resolving natural resource disputes. There are many ways to improve public participation, as shown in the previous chapters where we described and illustrated some means of developing and implementing consensus-based processes. The objective of this chapter is to show how consensus-based decision-making fits into the spectrum of public participation.

Of all the classifications of levels of public participation, we prefer Arnstein's (1969) ladder (Figure 2). On the right side of the figure we have shown where we feel forest-management planning is today, and where it is moving towards with respect to public participation. We believe that current resource management planning is too reactive. The required public consultation is designed and timed to collect input after most of the planning work has been done. Thus, input is reactive to the proposed contents of the plan. If there were more effective public participation in the planning process earlier and more frequently, the planning process would be better able to prevent and/or resolve conflicts.

In Figure 3 we show a continuum of the level and quality of public participation in resource planning. The objectives of the diagram are two-fold: (a) to show the characteristics of two distinctly different decision-making approaches; and (b) to show which aspects of planning the public could be involved in. With each shift to the right on the continuum, the level and quality of public participation will increase.

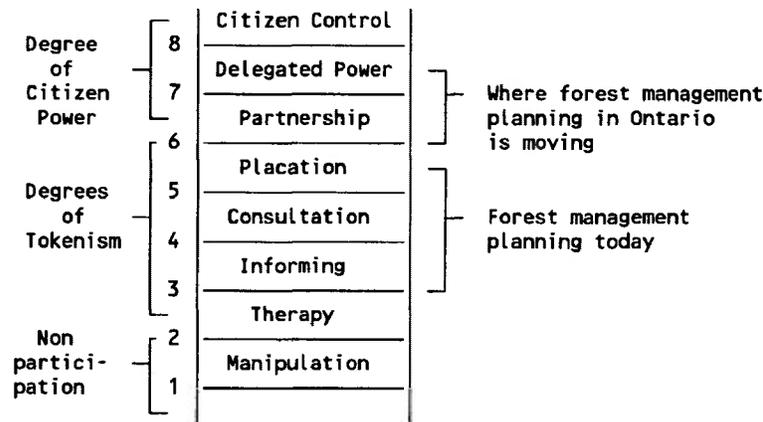


Figure 2. Arnstein's (1969) ladder in relation to where public participation in forest management in Ontario is today and where it is needs to go in order to reduce the number and complexity of forest-resource conflicts.

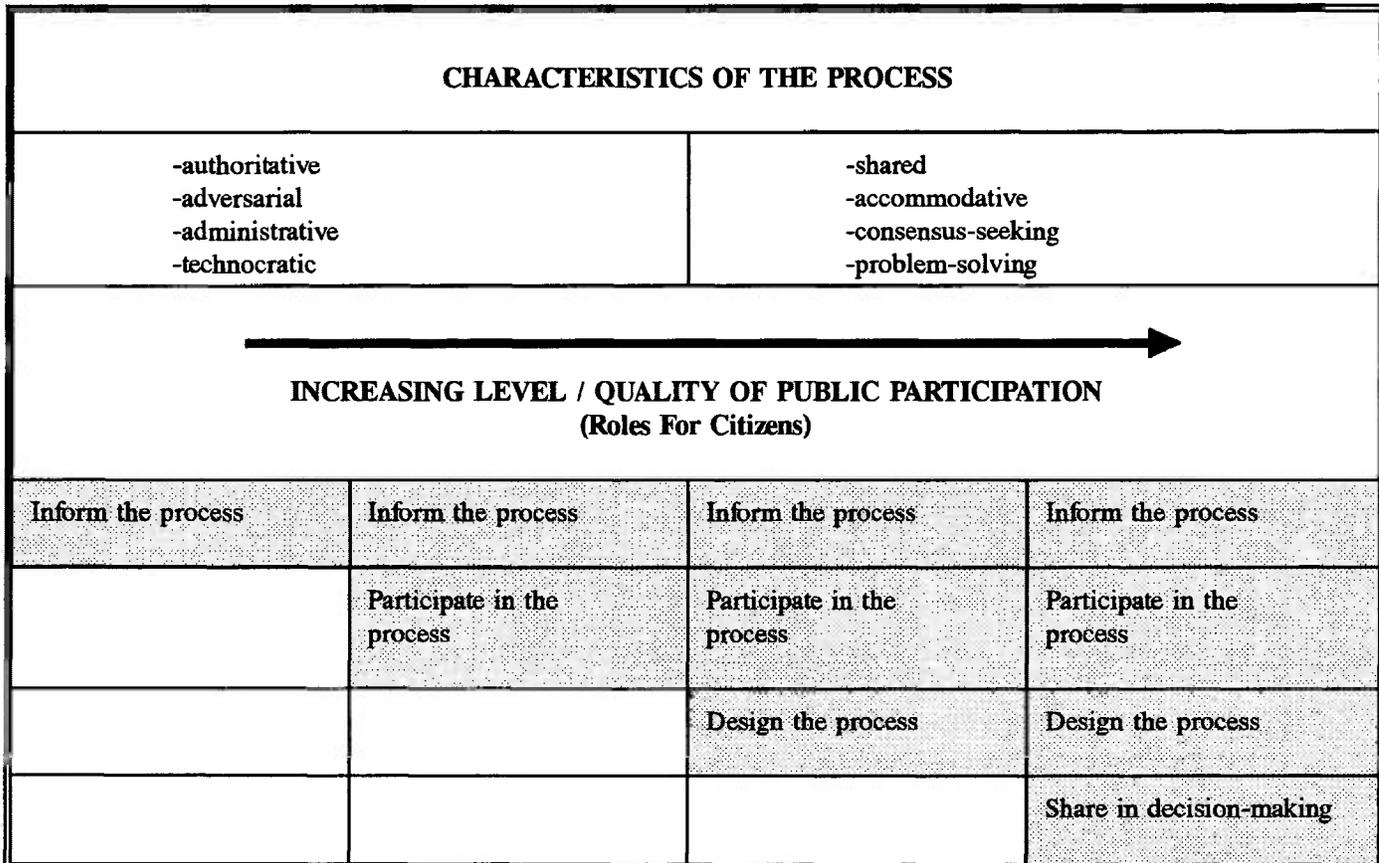


Figure 3. A continuum of level/quality of citizen participation in natural resources decision-making. Compared to Arnstein's (1969) ladder, the left end of the continuum would correspond to "Consultation" (rung 4), and the right end with "Partnership" (rung 6).

Throughout the document, we promote ways of improving public participation in natural resource and environment decision-making. The most common approach is through mechanisms we call "supplementary local mechanisms". These mechanisms include structures like committees and processes like negotiation, designed by local people to suit their needs in resolving conflict. Our experiences and research indicate that the most successful processes and the best decisions are developed and made by those who are most affected and closest to the conflict. We firmly believe that

these approaches actually empower local people in making decisions about their own futures. After all, who feels satisfied when decisions about resources and environment in Northern Ontario are made far away in a big city? A sure way to correct much of this is to seize the opportunity **LOCALLY** to find solutions to problems. When these solutions need approval from officials far away, it is usually easy to get.

In Ontario today, "advisory" or "stakeholder" groups and committees are the most common form of shared

In Ontario today, "advisory" or "stakeholder" groups and committees are the most common form of shared decision-making. These types of groups can serve a variety of purposes for both the organizers and the members. It is important when creating or agreeing to be a part of such committees that the objectives of the group be clear and known by all those involved. Two Canadian authors, Filyk and Côté (1992), have proposed the following list of functions that advisory groups can serve.

DECISION-MAKING FUNCTIONS

- Encourage co-ordination
- Find common ground between competing interests; conflict resolution
- Critique existing policy
- Provide new ideas
- Provide independent and alternative opinions
- Perform special studies

CITIZEN PARTICIPATION FUNCTIONS

- Education of the public and policy interpretation
- Public participation
- Representation of policy interests
- Diffusion of responsibility
- Democratization of the bureaucracy
- Policy legitimization

POLITICAL FUNCTIONS

- Serve to test public reaction to policies
- Provide a forum for expression of public opinion
- Force controversial issues into an objective arena
- Placate opposition by involving potential expert critics in the decision process
- Provide publicity and support for programs
- Be used for persuasion
- Provide a symbolic response to problems

- Give a false or misleading impression of addressing problems; known as "window dressing"
- Delay action
- Serve as patronage instruments

Clearly, some of the political functions are of suspicious merit. Regardless, it is important for prospective committee members to examine all the functions, both declared and unsaid. It is equally important to examine whether the committee structure will lead to a fair sharing of decision-making power. Committees which are given at least some degree of real decision-making authority are generally well-balanced forums.

When committees are advisory only, the agency establishing the group will usually determine the scope, membership and ground rules. Often, citizens do not want to be part of a committee which is strictly advisory because they feel that power is too unequal for their input to be meaningful and effective. They may also feel intimidated by the groups that hold, or are thought to hold, the real power. For public involvement and consensus-based decision-making to work well, each participant must have an equal say in the design of the process and ground rules, and in the acceptance or rejection of proposals. All parties at the table, including the organizing agency, should share information and make decisions as equals. Of course, any party has the option to leave the table and seek another means to resolving conflict. This option must exist, but it should be seen only as a last resort.

In addition to official planning process, there are other ways in which conflicts can be prevented. The first, and most important, is to develop partnerships with fellow resource users. Talking to and working with resource users you get along with, and also those you may conflict with in the future, is the best approach. Conflict prevention is much cheaper, easier and friendlier than conflict resolution.

The best place to prevent (and resolve) a conflict is in the area of conflict itself. Invite people to come to the forest, lodge, or lake where problems exist and discuss them. Field trips give people an excellent opportunity to see problems first-hand. People will understand the problems much better than if they must imagine them on maps or aerial photos. In such informal meetings, people can suggest and explore a variety of alternative solutions. It is easier to estimate the impacts of each alternative if you are at the site of the conflict.

A few final words about calling for an EA as an alternative to attempting to resolve conflicts by using local consensus. What sense does it make to call for an official environmental assessment as soon as something seems to go against you in the planning process? The environmental assessment process is indeed predictable, with its steps set in regulation. But the outcome is NOT predictable, because someone else, not the parties, gets to make the decision. And it is like court in that lawyers are usually involved. The EA process as we know it today does not draw out the best in people's problem-solving talents and cooperative spirit. It is very expensive and can take a long time. The Class EA for Timber Management on Crown Lands is a perfect example.

When things seem more and more tense in resource and environmental planning, we urge participants to consider designing their own structures and processes to find resolution for the emerging conflicts. This way, control over both the process for decision-making and the outcome remains in the participants' hands. If no-one locally has sufficient confidence to design such structures and processes, it is a simple matter to get help from outside. Good facilitators of group process, and mediators of resource and environmental disputes, can easily be found in Ontario and retained on a fee-for-service basis.

This document has left much unsaid about conflict resolution. We have not gone into details about

techniques in how to be an effective negotiator on your own behalf. You can find out about this, and much more about conflict and conflict resolution, through courses, seminars, and from books and papers that are readily available through libraries and bookstores. Appendix B lists some literature that we have found useful.

This chapter is entitled "Improved Public Participation". We realize this is not going to happen overnight. There is a need for all natural resource users and managers to learn about, and experiment with, better approaches to public participation and conflict resolution. Local stakeholders and citizens need to take initiative, to feel in control, and then actually be in control of finding solutions to the environmental and resource problems they face. Of course, conflicts need to mature and ripen before being really ready for resolution through processes such as negotiation and mediation. However, life is too short for people to be embroiled in natural resource and environmental conflicts that go on and on without an end in sight. If we can make even modest progress in this regard in the next decade or two, we will indeed be on the realistic future path we painted in Chapter 1 and everyone's hopes for a sustainable and happy future in communities can begin to become a reality.

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APPENDIX B: Glossary of Conflict Resolution Terms**ARBITRATION¹**

"Arbitration" is an adjudicatory process with an "arbitrator" (or, in some cases, panel of arbitrators) acting in the capacity of a judge. Disputing interests present their arguments and evidence and the arbitrator "rules", making a decision on behalf of the parties. The parties will be bound by legislative mandate or contractual agreement to accept and adopt the decision of the arbitrator. Bases for appeal to administrative or judicial bodies are very limited.

Reference is sometimes made to "nonbinding" or "advisory" arbitration where the parties are not bound to accept and implement the decision of the arbitrator. This approach might more accurately be referred to as "fact-finding" (see definition that follows) rather confusing the understanding of the arbitration process.

"Rights" and "interest" arbitration can be differentiated. In the former the arbitrator is making a decision within the context of a contract, treaty or other formal agreement between the parties. In the latter, the arbitrator is establishing an agreement or contract between the parties based on equity, other comparative relationships or such other bases as may be deemed appropriate. An example is where the arbitrator is called upon to establish wage and benefits for police or fire-fighters.

BARGAINING¹

"Bargaining" is used to refer to a process whereby two or more entities reach an accommodation that is acceptable to all involved. The "bargain" will usually be based on undertakings by one or more to those involved to do or not do certain things.

Bargaining may be implicit. For example, a decision-making body may choose to modify its preferred alternative in order to achieve the support (or defuse the opposition) of some other party. While there is no direct exchange of offers and counter-offers, a public agency might modify a planned action in response to opposition voiced in a public hearing. The anticipated result (other half of the bargain) would be the dropping of opposition to the proposed action.

CAUCUS²

Members of a negotiation process identified by a common set of interests. For example, those who come from a primarily conservation perspective.

CLOSURE³

A sense of having reached a natural stopping place, a feeling of completion.

CONCILIATION¹

"Conciliation" is a term that is used in a variety of ways. It may refer to attempts to settle disputes without bringing the disputing parties into joint session, with the conciliator acting as broker. Its is also used by some authors to describe the initial attempts to convene the parties, with the "conciliator" becoming a "mediator" at the point the joint sessions begin.

CONSENSUS³

A decision-making process in which all parties involved explicitly agree on the final decision. Consensus decision-making does not mean that all parties are completely satisfied with the final outcome, but that the decision is acceptable to all because no one feels that his or her vital interests or values are violated by it.

CONSULTATION¹

"Consultation" processes are often part of a regular decision-making process but the local of the decision remains within the established decision-maker and the degree to which the decision is influenced is at the discretion of the decision-maker.

Consultation is the basis of a variety of procedures referred to by such terms as "public consultation", "public participation" and "public involvement". Methods range from public hearings and requests for written submissions to more interactive techniques such as workshops and advisory committees. Consultation processes may be conducted by public agencies, developers, or by consultants engaged by such entities.

CONVENOR⁴

Any person who calls together a group of people to solve a problem by consensus. The "person" could be a government official, agency or a company president or employee, the chairman of an association of some kind, or anybody else. The convenor usually lays down a few basic terms of reference and often looks after the basic funding for the process.

DEADLINE⁴

The point at which discussion comes to an end and a decision has to be made.

DISPUTE⁴

Any clash between opposing or seemingly incompatible ideas, principles, goals, objectives or factions.

EXPECTATIONS³

Participants' anticipations about what will happen in a group situation, both what will happen, and the way in which it will happen.

FACILITATION¹

"Facilitation" refers to the task of managing discussions in a joint session. A facilitator may be used in any number of situations where parties of diverse interests or experience are in discussion, ranging from scientific seminars, to management meetings, to public forums. As noted, a mediator will serve as a facilitator as part of his or her broader role.

FACT-FINDING¹

"Fact-finding" is similar to arbitration, except that the fact-finder's findings are advisory. Underlying this process is the assumption that the judgement of an independent and respected but non-involved person will bring pressures to bear on the parties resulting in their accepting a compromise or accommodation on that judgement. The fact-finding process is usually less formal than an arbitration hearing.

As noted, fact-finding is sometimes referred to as "non-binding" or "advisory" arbitration.

GROUP PROCESS³

The means by which group members interact, make decisions, handle problems, and develop roles.

HIDDEN AGENDA³

A personal expectation or motivation which can affect how that person behaves in a group or feels about a group, but which is not known to others in the group. A person may have a hidden agenda without being aware of the fact. (For instance, an individual may come to a meeting on "Economic Problems of Cities" because he or she believes energy sources will be discussed. The person may plan to deliberately steer the discussion in that direction, or the person may not even realize that he or she has a private goal not necessarily identical with the group's goal.)

INTERVENE³

To take an active role in changing a problem situation, (for example, when a facilitator decides to take an assertive lead in suggesting and implementing solutions in a conflict.)

MEDIATION¹

Simply stated, "mediation" is negotiations with the assistance of an independent person often referred to as a "third party". Critical to mediation is the relationship between the mediator and the parties at interest. That relationship has four critical dimensions: 1) independence from the parties and the immediate issues in dispute; 2) mutual acceptability to the parties; 3) a focus on the process, not the substance, of the negotiations; and 4) assisting in finding a settlement mutually acceptable to the parties. The content of the settlement is the responsibility of the parties and must be mutually acceptable to them.

In environment/economic conflicts the mediator is likely to perform three major tasks: 1) acting as convenor in assisting the parties to define the terms and conditions under which the negotiations will proceed; 2) acting as broker, representing the interests, concerns, and ideas of one party to another, outside of joint sessions and in caucuses; and 3) acting as a facilitator in joint sessions.

MEDIATED NEGOTIATIONS OR "MEDIATION"¹

Mediation is a creature of negotiations. Negotiations can occur without mediation but mediation cannot occur without negotiations. In mediated negotiations the participants are committed to seeking a mutually acceptable resolution of their differences which they will formally commit themselves to implement and support. It is shared decision-making on a defined set of issues for a specified period of time. Concomitant to the commitment to joint decision-making is the understanding that, should they fail to reach agreement within the specified and

agreed upon time-frame, each is free to pursue its interests as it sees fit, whether through unilateral decision-making, the political process, the courts or some other means.

In negotiations "agreement" is defined as the joint acceptance of all parties. There are no votes and therefore no party can be overpowered by opposing numbers against its will.

Therefore, an agency or other organization with the authority to make decisions does not give up authority by entering into negotiations. No decision (agreement) can be reached which it finds unacceptable. On the other hand, if a decision or agreement is reached and it is mutually acceptable, it will go forward with the explicit support of those interests and parties who might otherwise be in opposition.

NEGOTIATION¹

"Negotiation" is explicit bargaining. Negotiations occur when two or more entities enter into a direct exchange, typically involving face-to-face meetings, in an attempt to find some resolution to their differences. It is based on the understanding (or assumption) that an agreement will involve a commitment to act within the terms of the agreement. Negotiation is a form of shared decision-making: that is, on a certain set of issues for a period of time those involved agree to seek an outcome acceptable to all involved. Should negotiations fail to result in agreement, the participants revert to pursuing their interests as appropriate, whether through unilateral decision-making or attempts to prevent those decisions from being realized through political or legal action or some other means.

PACKAGE⁴

The bundle of decisions or recommendations to which a consensus group agrees to at the end of the process.

POLICY DIALOGUES¹

"Policy dialogues" are usually convened and conducted by a mediator and are aimed at developing policy recommendations for consideration by legislative or administrative bodies. Representatives of affected interests are brought together to develop consensus on guidelines for the development of policy, or in some cases, to draft specific policy directions. Policy dialogues are not usually related to specific disputes and, because new directions are being developed, are less constrained by existing administrative practices, rules or legislation.

Through conferences where views are examined and exchanged in a non-confrontational and non-adversarial atmosphere, views are examined and data are exchanged and examined and mutually acceptable and often innovative directions are sought.

Policy dialogues may occur at the request of an administrative or elected official or at the independent volition of interested parties. Responsible officials are not pre-committed to adopt policies that emerge from such discussions. However, to the extent that the consensus represents a broad reflection of public and private interests and is based on a carefully reviewed and documented consideration of social concerns and technical realities, such a consensus can be very persuasive and is often translated into formal policy and legislation.

POWER³

The ability to exert influence over a group or over an individual in making decisions, establishing norms, or performing an activity

PROCESS⁴

The way in which we resolve disputes and make decisions.

PUBLIC CONSULTATION¹

As already noted, "public consultation" differs from negotiative processes in that the locus of decision-making is neither altered or shared. Public consultation may use the services of an independent convenor and facilitator, but because negotiations are not taking place, the process is not "mediation". The goal is to achieve maximum possible participation by representative members of the public and of affected organizations in a community.

In a legitimate consultation process, the public input becomes part of the normal decision-making process. However, the degree to which the input influences the decision is at the discretion of the decision-maker. And, the "public" participants make no formal undertaking to support that decision.

REGULATORY NEGOTIATIONS¹

"Regulatory negotiations" or "reg-neg" use the use of mediated negotiations in the setting of regulations. The parties at interest and the responsible agency are brought together to develop standards and procedures that are mutually acceptable. The agency commits to carry forward the agreement as a proposed rule if agreement of all parties (including the agency) is achieved. In the absence

of such agreement, the agency will promulgate a proposed rule of its own design, but that rule is likely to be more responsive to the needs of the parties and the public based on information developed and exchanged in the process.

In regulations dealing with technical and scientific matters (chemicals, waste disposal, habitat protection, etc.) there is a prior commitment that any rule developed through the negotiations will be based on an appropriate scientific and technical record.

Regulatory negotiations have been successfully applied in situations ranging from stream protection in timber harvest to protection of eagle nesting sites to the protection of air quality during off-shore oil exploration and development.

RESOURCE PERSON³

An individual whose role in a group is to provide information on a subject that the group is interested in.

STAKEHOLDER⁴

Anybody who feels that his/her interests will be affected by the outcome of a decision-making process. These interests do not have to be of a financial nature, but may include a whole range of human values, such as the need for natural justice, religious values, ecological principles and a longing for environmental protection.

TASK FORCE²

Refers to designated individuals or "representatives" who formally participate as members of the body designated to reach consensus agreement.

WIN-WIN⁴

A situation in which neither side in a dispute loses out to the other. Both sides "win a little" compared to a 50-50 split. Neither side wins everything.

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