Environmental Collaboration and Conflict Resolution in the USA: Reflecting on the First 40 Years … and Opportunities for Research

Looking Back

Environmental collaboration and conflict resolution (ECCR) emerged in the early 1970s. Following on the heels of the young environmental movement, some in the United States began experimenting with new forms of conflict management to foster collaboration and resolve disputes relating to environmental issues and projects. From 1973 to 1974, in what is widely regarded as the first such experiment, Gerald "Jerry" Cormick and Jane McCarthy, mediators from the University of Washington, assisted a group of negotiators representing residents, farmers, environmental groups, and government agencies to develop recommendations for a flood control project on the Snoqualmie River in Washington State. This site is a mere 60 miles (95km) northeast of the IACM 2013 Conference venue in Tacoma.

ECCR is situated in what John Dryzek calls "democratic pragmatism," a discourse which promotes the active engagement of the public in environmental problem solving, in contrast to leaving decisions exclusively to government officials—"administrative rationalism"—or market-based mechanisms—"economic rationalism."[1] ECCR is an umbrella term for a diverse set of practices, such as mediation, facilitation, community-based collaboration, and consensus-building. It is common for a neutral third party, such as a mediator or facilitator, to be involved in assisting parties with negotiations or in conducting dialogues among stakeholders regarding a particular environmental issue.

There have been two main periods in the history of ECCR in North America. The first, from the 1970s to the 1980s, featured the *ad hoc* use of ECCR in situations that seemed appropriate to those immediately involved. Third party practitioners transitioned from other fields of practice, such as labor mediation, and foundation grants provided support in the early cases. It was during this time that the first private sector ECCR firms were established and the first case study literature appeared.

The second period of ECCR, since the 1980s, has witnessed increased institutionalization through early entrepreneurial efforts in government agencies, federal policy and legislation promoting the practice, and dedicated government offices. Other evidence of institutionalization has included periodic national ECCR conferences, required annual reporting on ECCR involving federal agencies, and a federal roster of practitioners that currently has more than 200 registered members. The use of ECCR has grown considerably in four decades. Today, the U.S. federal government reports more than 400 ECCR cases each year, which does not include the myriad activities that involve only other levels of government or the private sector.

ECCR at IACM 2013

At the IACM 2013 conference, Jerry Cormick, Betsy Daniels of Triangle Associates and Michael Kern of the William D. Ruckelshaus Center, and I all led a panel session reflecting on the past 40 years of ECCR practice and potential topics for further research through the lenses of our respective private practitioner, academic, and governmental institutions. With the audience, we considered the changes that have occurred since those early days when ECCR was a new public policy experiment. We acknowledged the trend toward institutionalization, which is perhaps inevitable as a field of practice matures, and its attendant benefits (including greater support for ECCR among government agencies) as well as potential downsides (such as a loss of some flexibility in organizing and conducting ECCR processes and the challenges of neutrality in a fee-for-service industry). Another important change is that

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[1] Dryzek, J. S. (2013). The politics of the earth: environmental discourses (3rd ed.). Oxford, New York: Oxford University Press

agreements now take much longer to reach, which perhaps parallels the extension of timeframes for environmental decision making generally. The length and detail of agreement documents have also grown considerably. Early agreements reached through ECCR tended to be only several pages long; now they can be hundreds of pages long due to legal language and terms.

The practice of ECCR itself is also different. There is an increasing trend away from an exclusive focus on formal mediation and dispute resolution toward "upstream," facilitated forms of collaborative governance, stakeholder groups, and public involvement. All of these "upstream" efforts engage interests at an earlier phase of their relationship, hopefully before perspectives on a given issue becomes rigid, and inform public decisions as they are being developed. The practitioner community is also now much more concerned with how ECCR is conducted. This interest extends to greater analysis and evaluation of the process and training intended to inculcate key skills.

Another important change to ECCR practice is funding. Two decades ago, many cases were supported by a single source, often a foundation, with limited interest in the substantive outcome. Today, ECCR practice has become a fee-for-service enterprise; it is common for government agencies and other parties to hire ECCR practitioners as they would any other contractor. This sometimes raises questions about the ability of mediators and facilitators to act independently from their sponsors, though most practitioners assiduously protect their reputation for impartiality.

The panelists' presentations highlighted features that our particular ECCR institutions—private sector, academic, and government—have in common. All of our organizations provide a range of ECCR services, directly or indirectly, including such activities as conflict coaching, situation assessments, mediation, facilitation, and training.

Betsy Daniels described Triangle Associates' history as the first for-profit ECCR firm and explained the shift to "upstream" collaborative governance cases that are more common today than 40 years ago. She also highlighted one of her company's recent cases involving tribal and federal water quality interests in Idaho. Betsy also spoke to the importance of designing a process to promote parties' openness and creativity. Michael Kern shared three ECCR cases sponsored by the Ruckelshaus Center in Washington State, described its project intake criteria, and noted the Center's focus on situations where there is something unique about academic involvement that makes a successful outcome more likely. Jerry Cormick's truly unique perspective on the early practice of ECCR, included how he transitioned from work on labor and race issues and served as a mediator on the Snoqualmie case and other cases in that era. I described the role of the U.S. Environmental Protection Agency's Conflict Prevention and Resolution Center in supporting ECCR, including our mission contract for third party practitioners and related services, and noted some of the benefits the agency gains from such processes. We agreed one important difference among the three types of organization is the degree to which neutral third parties operating from each would be perceived as sufficiently independent, impartial, and credible in a given situation.

Looking Forward

Toward the end of the session, we devoted attention to opportunities for research related to ECCR. Despite 40 years of practice and thousands of cases, there is a general lack of research on ECCR. Methodologically, the literature is dominated by descriptive case studies, with many being decades old. There are also a handful of large-N studies, whose subjects are cases or parties involved in ECCR. Their focus tends to be on participant satisfaction with elements of the process, on the role of mediators and facilitators, and to some extent on outcomes, such as whether or not an agreement was reached.

A decade ago, Kirk Emerson, Tina Nabatachi, Rosemary O'Leary, and John Stephens noted several methodological challenges that may complicate research in this area. One is that many of those researching ECCR are themselves third party practitioners, leading to potential bias in their studies. A second issue is that ECCR cases are heterogeneous, making them difficult to categorize for analytical purposes. In some instances it can be

daunting to even isolate ECCR from related serial and parallel decision making processes for study. Third, confidentiality is a common ground rule for participants in ECCR, which limits both mediators' and parties' ability and willingness to share information with researchers. Finally, and in part because of confidentiality, data is often available on ECCR cases only after they conclude.[2] These challenges are still with us today and continue to invite creative efforts to overcome them.

Our panel identified several potential avenues to expand the body of research on ECCR. There is a great need to collect more stories about the practice. These could be analytical case studies in their own right, but they also could provide data for comparative studies of various sorts. Methodologically, the field would benefit from research based on direct observation of cases occurring in real-time. While many ECCR cases are confidential, some are open to the public, affording direct access to researchers.

Three interesting research questions we surfaced connect with the changes that have occurred in ECCR over the past 40 years:

• To what extent does the length of a written agreement reached through ECCR affect its implementation?

• How do "upstream" ECCR cases — those where the parties have relatively new relationships and/or have incorporated collaborative governance and conflict resolutions principles and expertise early in the process — compare to "downstream" cases — where parties have older relationships and/or have incorporated collaborative methodology and expertise only once a conflict is in full throttle?

• Does the type of institutional sponsor of an ECCR case or institutional setting of the third party practitioner impact the conduct of the negotiation or its outcome?

Other comparative questions in the ECCR field include the following:

• How do the roles played by neutral third parties, negotiators, and other actors compare in ECCR cases?

• In what ways is ECCR similar to or different from practices in other domains? What are the impacts on a negotiation when environmental issues are at stake, as opposed to other types of issues?

What are the tangible outcomes of ECCR — environmental and economic effects, for example — and how do they compare to those from decisions reached through other processes?

Jerry, Betsy, Michael, and I were delighted to share our experiences about ECCR at the IACM 2013 Conference in Tacoma. We hope that our conversation and the ideas for further study we generated will inspire further research in this area.

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[2] Emerson, K., Nabatchi, T., O'Leary, R., & Stephens, J. (2003). The challenges of environmental conflict resolution. In R. O'Leary & L. Bingham (Eds.), The promise and performance of environmental conflict resolution (pp. 3-26). Washington, DC: Resources for the Future.