

Gerald (Jerry) Cormick

Independent Dispute Settlement Professional
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Education

B. Comm., University of British Columbia , 1964
M.B.A., The University of Michigan , 1965
Ph.D., Graduate School of Business Administration,
The University of Michigan , 1971

Experience Overview :

Gerald's initial experience was in the labor-management field where he pioneered the application of negotiation and mediation processes to racial and community-based disputes beginning in 1968. Considered the father of mediation, he was the first to apply mediation and negotiation approaches to environmental/economic disputes and other public policy issues in the U.S beginning in 1972. He has successfully mediated scores of complex multi-party conflicts throughout the U.S. and Canada involving a wide-array of participants and issues. Jerry began mediating regulatory disputes in 1985 and has extensive experience in developing processes and mechanisms for implementing national and regional sustainability programs. Gerald has taught negotiation and alternative dispute resolution at the university level since 1965, receiving numerous awards for teaching excellence.

Current and Completed Projects (illustrative)

California and California Related Cases

Mediated Outer Continental Shelf (OCS) air quality regulations for California . Issues included application of local and state regulations, development of a "technology driven" standard, and economic and environmental impacts. Participants included the federal government, including the Department of the Interior, the Environmental Protection Agency, the Department of Justice, and the Office of Management and Budget; 2) the State of California including the Coastal Commission and State air quality administrators;

3) local governments from San Diego to Eureka; 4) the oil industry including the major companies involved in exploration and development along the California coast; and 5) local, state and federal environmental interests including Citizens Planning Association (Santa Barbara), Citizens for a Better Environment, Coalition for Clean Air, Natural Resources Defense Council and the Sierra Club. A draft agreement was reached but not formally ratified. Ratification was, first, delayed by the presidential election and, then, by the Exxon Valdez oil spill. Nevertheless, when authority shifted to EPA, the Agency promulgated and ultimately adopted a rule which reflected the elements in the draft agreement. (1986-88)

Mediated issues related to relocation and expansion of the terminal at Burbank-Glendale-Pasadena Airport . The issue was, and continues to be litigated on a number of issues. The major parties were the three cities and the Airport Authority (which is a creature of the Cities). Significant issues included growth, tax and other revenues, noise, and control over decisions. A number of alternative packages for resolving the issues were considered but agreement was not reached. (1996-97)

Mediating (with a team) Multi-Species Conservation Plan for Lower Colorado River Basin . The parties include five Federal Agencies (Bureau of Reclamation, Bureau of Indian Affairs, Fish and Wildlife Service, Bureau of Land Management, National Park Service); the States of California, Arizona, and Nevada; five Tribal Nations; local and county governments; power generation (including Arizona Power Authority, Southern California Public Power Association and its members and Nevada Power Company); irrigation districts; metropolitan water users; conservation interests; and recreational interests. Focus is on 102 named species and the development of conservation and management strategies for their protection and recovery under the provisions of the Endangered Species Act. (1997-)

Mining Related Issues :

Mediated regulatory structure for placer mining in Canada 's Yukon Territory . Parties included the Federal Departments of Fisheries and Oceans and Indian Affairs and Northern Development, and Environment; Government of the Yukon; Council of Yukon

First Nations: and Yukon Placer Mining Association, fisheries and conservation interest groups. The issues included competing levels of governmental authority, gravels and waste materials handling, water quality and turbidity standards, habitat and stream restoration, monitoring and compliance and the process for implementing the regulations. Consensus was reached on a regulatory package which was forwarded to the Minister for approval and implementation on June 30, 2002. (2002)

Facilitated and mediated a series of meetings involving the international mining industry and international non-governmental organizations (NGO's) in the exploration of standards for implementing a sustainability policy for the mining industry (environmental, social, cultural and economic sustainability). The initial policy development focused on a single company (Placer Dome, Inc.) and began with a consideration of its properties in Papua New Guinea and resulted in the development of a corporate policy and strategies concurred in by the NGOs. This effort led in part to an international initiative "Mining Minerals and Sustainable Development", an ongoing effort involving the World Business Council, NGOs and the International Institute for Sustainable Development. (1998 -)

Mediated a dispute over the development of a "yellow cake" (uranium mine) in the Gunnison National Forest of Colorado. The Homestake Corporation had prevailed in a series of court actions opposing mine development and the issues in this case focused on protection of the environment, water quality and site reclamation. The parties were the Corporation and a coalition of more than 30 environmental and recreation organizations led by the National Wildlife Federation. Agreement was reached on a plan which included backfilling the pits, an endowed entity to protect water quality in perpetuity and a joint covenant not to sue if the agreement was implemented as specified and formally signed in the Office of Colorado Governor Lamm. Of particular note was the joint authorship by the attorneys representing each side of a paper discussing the use of mediation in such cases from the perspective of their two "sides". (John L. Watson and Luke J. Danielson, "Environmental Mediation", *Natural Resources Lawyer*, v. 15, no. 4, 1983, pp. 687-723.) (1980-81)

Other Cases (Illustrative)

Mediating, by appointment of the Court, issues relating to water rights in a major western U.S. water basin. Parties include the U.S. Department of Justice, Bureau of Reclamation, and Bureau of Indian Affairs; the State of Washington ; Indian Nation; and a number of irrigation districts and municipal water users. Issues include federal vs. state authority; existing administrative and legal decisions, relinquishment of water rights, water conservation, and water use. (2000 -)

Mediated , by appointment of the Governor, a special session of the Washington Legislature (house and senate), assisting in their development of a legislative package to give effect to the recommendations of the Blue Ribbon Commission on Transportation (see below). Consensus Mediated issues related to water quality and hydro-period (quantity, timing and flow) to the Florida Everglades. Conflict over the issues had resulted in more than 35 legal and administrative actions involving federal agencies, the State of Florida , the Miccosukee and Seminole Tribes, The South Florida Water Management District, agricultural interests and environmental groups. Agreement was reached on a plan that would decrease nutrients, increase available water and reintroduce sheet-flows to the Everglades system. The plan will result in construction of 40,000 acres of artificial marshes, "replumbing" the existing canal system and changes in agricultural practices. The plan, along with a shared funding plan developed in mediation, was adopted by the Florida legislature in 1994 and the Congress in 2000. (1992-94)

Facilitated and "coached" the 38 member Blue Ribbon Commission on Transportation. The Commission was created jointly by the Governor and Legislature of the State of Washington to make recommendations on revenue sources, "investments" (transportation projects) and administration. My role included assisting in the development of Commission structure and procedures, coaching the Chair, staff and subcommittee chairs on process, and facilitating key meetings and retreats. The Commission completed its work in December 2000 with consensus recommendations on an ambitious menu of projects with related revenue sources, organizational restructuring

and benchmarks for measuring the performance of transportation agencies. (1998 - 2000)

Mediated a 200 year old land claim dispute involving the Pueblo Sandia; U.S. Departments of Justice, Agriculture and Interior; county and city government; a private corporation; and local property owners. Issues included boundaries of the Pueblo , management of the disputed area, administrative and enforcement issues, and intergovernmental relations. Agreement was reached between the U.S. , the Pueblo and the private corporation but was not concurred in by the other parties. The agreeing parties established a two year "option" on the agreement pending outcome of further legal actions and proposed Congressional legislation. (1998 - 9)

Mediated new rate structure for low level radioactive waste disposal at the Northwest Compact site in Washington State . Parties included the Washington Utilities and Transportation Commission staff, other state agencies, the site operator, approximately 150 waste generators and interested publics. Previous rate setting proceedings had resulted in adversarial and costly proceedings that included court actions. Consensus agreement was reached on a new rate structure characterized by its congruence with a study of "cost causers" and phased in over a period of three years. Mediator coordinated the design of the costs study and facilitated technical committee and site assessments. The new rate structure will stand for six years with agreed upon inflation adjusters. The rate structure recommended by consensus to the Commission and was adopted unanimously on the day of the hearing. (1994-95)

Special adviser to Canada 's National Round Table on the Environment and the Economy. Recent services included the design and provision of a one and one-half day workshop on the settlement of multi-stakeholder disputes offered in Charlottetown, Prince Edward Island to members of the Round Table, municipal and provincial officials in the region and representatives of industry, environmental groups and First Nations and consensus development of a handbook, Building Consensus for a Sustainable Future: Guiding Principles . (1990 - 5)

Special adviser on dispute resolution systems and structures to the British Columbia Round Table on the Environment and the Economy. The Round Table was formed in response to the United Nations World Commission on Environment and Economic Development and is charged with developing a "sustainable development" strategy for the Province. Its 29 members represent provincial, local and Tribal government, industry, environmental groups, labor, the academic community and others. Structures and procedures for settling environmental/economic disputes are being developed. (1990-94)

Co-authored a background paper, "Elements of a United Nations Environment and Development Dispute Prevention and Settlement Service" for and provided consultative services to the Preparatory Committee for the United Nations Conference on the Environment and Development. Worked directly with member nations in developing a formal proposal for the resolution of trans-boundary pollution conflicts. (1991)

Teaching and Educational Programs (Examples)

"Mediation and Negotiation as Instruments of Public Policy and Management" , Graduate School of Public Affairs, offered once each academic year.

"Principles and Power of Negotiations" Pacific Coast Banking School , Seattle. Annually, in second or third years of three year certificate program.

"The Organization at its Boundaries: Negotiating Conflicts and Resolutions" Office of Executive Programs, Graduate School of Business Administration , University of Washington. Weekend segment of year-long management course, offered annually.

"Conflict Resolution and Consensus Building : Working the Seams of Government" , Cascade Center for Management, Graduate School of Public Affairs , University of Washington. Five day intensive course developed for senior managers in the public sector. Offered twice annually.

"A Negotiation and dispute management for senior managers" Executive MBA Program, Graduate School of Business Administration , University of Washington. Two day intensive workshop offered annually.

"Using ADR to Resolve Complex Public Policy Disputes" Osgoode Hall Law School , York University , Toronto Canada. Course offered annually as part of LL.M degree program specializing in ADR.

Teaching Cases and Simulations

Examples of more than 50 teaching cases and simulations authored:

"The Wrecked Corby" A two party (parent and insurance agent) negotiation to resolve issues arising from the wreck of a teenage son' s car. Used to emphasize the definition of interests , the importance and impact of relationships and the need for effective communication.

"The Gramm Creek Site" A teaching case used to strategize solutions and alternatives to proposed wetlands development, including appropriateness of on- and off-site mitigation. Parties involved developer, local port (landowner), state and federal agencies and local interests.

"Operation Wilderness" A four party negotiation simulation (U.S. Forest Service, timber company, environmental coalition and local community) involving designation of a wilderness park while maintaining a sustainable economy and protecting watersheds. Of particular note is the ability of individual parties to take unilateral actions or receive political assurances through the exercise of political influence. Published on The Electronic Highway, Daniel J. Evans School of Public Affairs , University of Washington .

"The Cormorant River Marina" A negotiation simulation over issues including wetlands protection, threatened species, a permit application to expand a marina, and failed local septic systems. Canadian version includes an aboriginal land claim on the wetlands and other areas. Parties include the Corps of Engineers, state/provincial agencies, First

Nation, local government, boating interests, neighborhood interests and the marina. (Based on an earlier case developed by the U.S. Corps of Engineers.) (U.S. and Canadian versions.)

"The Island National Park Controversy" The issues involve the uses and proposed expansion of the Park, including winter use with downhill skiing and snowmobiles, a new lodge, and improved access. The parties involve the National Park Service, the U.S. Forest Service, a timber company, an environmental coalition and local business "booster" group. (A state park version and a similar Canadian versions.)

"The Panda Development Loan " A negotiation simulation created for the banking and business communities. Issues involve the negotiation of a commercial development loan package, including terms, size and conditions. Parties are the various departments within the bank who must reach internal agreement and parallel interests in the development joint venture. The simulation involves internal and external negotiations in search of an agreement.

"The Placer Mining Dispute" A negotiation simulation arising from a proposed placer mining operation in a stream with an anadromous fishery. The issues involve the terms and conditions under which such a mining operation might be permitted. The parties include the U.S. EPA; state agencies for natural resources, economic development and environmental protection; the mining company; a (aboriginal) village corporation, and environmental interests.

"The Asbestos Abatement Contract" A negotiation simulation over issues arising from asbestos abatement in an historic building. Parties involve the building owners, project manager, the architecture and design consultant, asbestos abatement subcontractor, and attorneys for the disputing parties. The issues arise from the discovery of allegedly unanticipated amounts of asbestos and relate to responsibility, costs and time frames. The case is characterized by multiple interests and negotiations in and between organizations and coalitions. (State, local government and private sector versions.)

"Social and Economic Change in Adams County" A teaching and strategizing case focusing on the economic and social implications of the closure of a major resource based industry. Various elements of the community are in dispute over how to and what types of new economic ventures to attract. Conflicts have spilled over into the local educational system and religious communities. Participants are assigned to a consulting team @ sent in to assist the community in resolving its issues and developing a strategy for the future.

"St. Joseph Shopping Mall" A two part negotiation simulation involving the proposed construction of a regional mall on an abandoned privately owned golf course which has become an unofficial community open-space. The parties include the mall developer, the city planning agency, a local neighborhood coalition, the downtown merchants and the chamber of commerce. In "Part A" the participants negotiate a set of ground rules or protocols for the proposed negotiation or consensus building effort and identify a team of mediators. In "Part B" the participants are given a data bank that enables them to negotiate mall size, mitigation of visual, noise and traffic impacts, design of a possible park on part of the site, and provisions to revitalize or mitigate impacts on the central business district. (Canadian and U.S. versions.) Published on The Electronic Highway, Daniel J. Evans School of Public Affairs, University of Washington .

"The RPM - Can Tech Negotiations" An intra-organizational - inter-organizational negotiation simulation involving proposed sale/purchase of a computer system. The negotiations reveal underlying interests that provide for a much more effective means of meeting the needs of the two organizations.

Teaching Awards

"Excellence in Teaching Award" , awarded by Executive Programs, School of Business Administration , University of Washington to the outstanding teacher in executive programs. Received 1991; 1992; 1993; and 1995.

Past Experience and Positions

1988-91 - Regional Representative and Training Coordinator, The Mediations Institute, Seattle , WA .

1975-88 - Founder and President of The Mediation Institute, Seattle , WA .

1972-75 - Associate Professor of Sociology and Director, Community Crisis Interventions Center , Washington University, St. Louis , MO.

1970-72 - Research Director and Training Coordinator, Institute for Mediation and Conflict Resolution, New York , N.Y.

1969-70 - Assistant Director, Racial Negotiations Project, Institute of Labor and Industrial Relations, The University of Michigan

1965-69 - Assistant Professor, Department of Business Administration and Department of Economics, University of New Brunswick , Canada

Past Experience and Positions

_____, et al. Building Consensus for a Sustainable Future: Putting Principles into Practice , (Canadian) National Round Table on the Environment and the Economy, Renouf Publishing, Ottawa , 1996. (Published in English and French.)

_____, et al. Using Mediation When Siting Hazardous Waste Management Facilities . U.S. Environmental Protection Agency: Washington D.C. , 1982.

_____, Ed. Collective Bargaining Today : Proceedings of the Third Annual Collective Bargaining Forum, Institute of Collective Bargaining and Group Relations Bureau of National Affairs: Washington, D.C., 1972.

_____, "Environmental Mediation", Washington State Bar Association Handbook , WSBA: Seattle , WA : 1988, Chapter 9B.

_____ and James Laue, "The Ethics of Intervention in Community Disputes", in *The Ethics of Social Intervention*, Herbert Kelman, Donald Warwick and Gordon Bermant, Eds., Hemisphere Press: Washington, D.C., 1977, pp. 205- 232.

Jonathon Brock and _____, "Can Negotiation be Institutionalized or Mandated? Lessons from Public Policy and Regulatory Conflicts" in *Mediation Research*, K. Kressel, D. Pruitt and Associates. Josey-Bass Inc., San Francisco, CA., 1989, pp. 138-65.

W. E. Chalmers and _____, Eds. *Racial Conflict and Negotiations: Perspectives and First Case Studies*. Institute of Labor and Industrial Relations, University of Michigan and Wayne State University and American Arbitration Association: Ann Arbor, Michigan, 1971.

Selected Articles

_____, "Environmental Conflict, Community Mobilization and the Public Good", *Studies in Law, Politics and Society*, Vol. 12, 1992, pp. 309-329.

_____, "Crafting the Language of Consensus", *Negotiations Journal*, October 1991, pp. 363-368

_____, "Strategic Issues in Structuring Multi-Party Public Negotiations", *Negotiation Journal*, April 1989, pp. 138-165.

_____, "Where, When and How to Use Mediated Negotiations: A Checklist for the Potential Participant", *Canadian Environmental Mediation Newsletter*, 1988, York University : Toronto : Vol. 3, No. 1, pp. 7-9.

_____ and Alana Knaster, "Oil and Fishing Industries Negotiate: Mediation and Scientific Issues", *Environment*, December 1986, pp. 6ff.

_____, "The Myth, the Reality and the Future of Environmental Mediation", *Environment*, September, 1982, pp. 14 ff.

_____, "Intervention and Self-Determination in Environmental Disputes: A Mediator's Perspective", *Resolve*, Winter, 1982, pp. 1-7.

_____, "The 'Theory' and Practice of Environmental Mediation", *The Environmental Professional*, 1980, pp. 24-33.