

## USING RETROSPECTIVE AND PROSPECTIVE FRAME ELICITATION TO EVALUATE ENVIRONMENTAL DISPUTES

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Evaluation of intervention in environmental disputes has largely relied on retrospective approaches. These are summative in nature, usually conducted at the conclusion of the intervention effort, and sometimes after one or two years. Retrospective analyses can offer insight into whether or not an intervention process was successful on a number of important dimensions. For example, success can be assessed according to whether or not an agreement was reached and whether it was feasible and sustainable; how the decision-making process compared with other alternative processes; whether the agreed-upon actions were taken; whether adversarial relationships changed; to what extent parties were satisfied with process, representation, and outcome; whether parties' relationships improved, or at least did not worsen; and whether or not learning took place.<sup>1</sup> All of these kinds of assessments can be particularly beneficial to the stakeholders should they participate in subsequent intervention or consensus-building efforts. They provide cumulative insights for agencies and alternative dispute resolution (ADR) practitioners, and even for stakeholders who meet again. However, they do not offer participants an opportunity for reflection about a process in which they are currently engaged, and which could benefit from the evaluative information.

In this paper, we propose a more contemporaneous approach to evaluation that interjects opportunities for "on line" sense-making<sup>2</sup> about the intervention or consensus-building process and about participants' own views of the issues while the conflict interactions are unfolding. The proposed evaluation approach utilizes frame elicitation, an analytic technique based primarily on interviews with the participating stakeholders, that reveals how the participants are interpreting critical aspects of the dispute. Evaluators then provide feedback to participants about their frames and how they may be influencing their views about the issues and the process, as well as how their frames might unnecessarily reduce the realm of possible agreements. The goal of providing parties with framing information is to help them and any intervenors reflect on the ADR process while it is still underway, so they can profit from it (rather than get the information after the process is over). Ideally, this reflection enhances the participants' overall chances of reaching consensus. At the very least, it reveals the implicit choices parties often make through the frames they choose to apply to a dispute, and thereby points to avenues for improving current and future dialogue.

We offer two case examples of how frame elicitation techniques have been used for prospective evaluation and intervention in protracted environmental disputes. The first case is that of the 35-year-long controversy about the status and management of Voyageurs' National Park. Despite an 18-month mediated effort to resolve the dispute in 1996 and 1997, an agreement was never reached. We examine why mediation was unsuccessful and then describe some subsequent efforts to intervene in the dispute using frame elicitation techniques based on data collected from a broad spectrum of stakeholders. The second case has been unfolding over the past 25 years: a lack of concerted mitigating actions has allowed Doan Brook, an urban watershed, to deteriorate, despite the seeming agreement among parties that such actions are sorely needed. Parties in a recent decision-making process (1999-2000) were interviewed, and

information on elicited frames was analyzed and offered back to the parties, who found it helpful in crafting joint action to manage the watershed.

The paper is organized as follows. After a brief review of the status of evaluation research within the ADR field, we describe work that has been done on the framing of environmental disputes and introduce frame elicitation techniques. We then present the two cases and show how frame elicitation was used in each one for evaluation purposes. Finally, we sum up the lessons learned from the two cases and consider the potential of frame elicitation as a prospective evaluation tool for consensus building, particularly its complementarity to the convening process.

### **Retrospective Evaluation of Environmental Consensus-Building Efforts**

The difficulties of evaluating ADR in environmental cases have been amply documented.<sup>3</sup> They include the complexity of issues, the lack of similarities among cases, obstacles to observation and documentation because of confidentiality concerns and the length of time involved, and the fact that several ADR and legal processes often occur concurrently. In addition, the scientific uncertainty surrounding environmental consequences of various decisions makes it difficult to assess the extent and quality of the outcomes for the environment and to hold them independent of the stakeholders' preferences. However, an even bigger challenge is defining success, and consequently some measures that would signal it or lack of it, given the fact that the environment is a public good.<sup>4</sup> Rather than being a disagreement among observers, the definition of success goes to the core or purpose of ADR, broadly defined here to include facilitation, mediation, and consensus-building processes.

When ADR initiatives were first undertaken, an important concern of those engaged in them – parties, intervenors, and sponsors – was establishing their utility as alternatives to the traditional decision-making processes they replaced (e.g. litigation, agency policymaking, etc.). During these early years, evaluation sought to demonstrate that ADR processes required less time and money and produced superior outcomes (with respect to both quality of the agreements and stakeholders' commitment to them).<sup>5</sup> This type of evaluation required counterfactual argumentation,<sup>6</sup> since it was next to impossible to find cases to compare that had sufficient similarities besides the method they used to resolve the dispute. Another approach to demonstrating the legitimacy and even superiority of ADR processes was the production of descriptive case studies that enabled readers to step into the cases and make vicarious judgments about their effectiveness. In the environmental arena, several volumes of such cases,<sup>7</sup> as well as many accounts of individual cases,<sup>8</sup> helped to establish this early credibility for the field.

As environmental ADR processes have gained acceptance, evaluation efforts have been challenged to capture more of their inherent complexity.<sup>9</sup> Recently, cross-case comparisons have begun to emerge.<sup>10</sup> Still, when evaluation efforts have been undertaken, they have largely been limited to summative findings that relied on retrospective analysis.<sup>11</sup> This type of evaluation was conducted at or shortly after the conclusion of the ADR process, and sometimes even one or two years beyond it, and generally focused on three issues: the results achieved, the process used, and the relationships built.<sup>12</sup> As Birkhoff and Bingham<sup>13</sup> and Innes<sup>14</sup> have pointed out, however, evaluators can use many other criteria to assess each of these issues. For example, retrospective evaluation of outcomes can include:

- Whether or not an agreement was reached

- Quality of the agreement (as defined by the stakeholders, or other measures)
- How the agreement compares with decisions reached by other methods
- Whether the agreement is feasible and sustainable, and whether agreed-upon actions were taken
- Whether relationships among parties changed for the better
- Extent of learning that occurred
- How just the agreement is
- What second-order effects were triggered

Criteria for judging process success have also been suggested.<sup>15</sup> These include:

- How representative of the diversity in the problem domain are the people seated at the table?
- How much process control do they have?
- To what extent is the discourse characterized by respect and civility?
- Are constituencies included in the process?
- Does it encourage participants to challenge assumptions?
- Does it conform to existing laws and procedures?
- Are the costs (time and money) reasonable?
- Were constructive processes for dealing with differences utilized?
- Did it avoid setting precedents for non-participants?

All of these kinds of retrospective assessments can be particularly beneficial to the participants, should they participate in subsequent ADR or consensus-building efforts, which is often likely when environmental issues are at stake. They also provide cumulative insights for agencies and ADR practitioners. Nonetheless, they do not afford participants an opportunity for “in situ” reflection about the process in which they are currently engaged, or for making any midcourse corrections that might improve their chances of reaching a lasting consensus. Although Innes has suggested the utility of midcourse evaluations, her suggestions for these only focus on “identifying and remedying process problems.”<sup>16</sup>

In the next section we explore what we refer to as *prospective evaluation*. It offers an ongoing approach to examining both the content and process issues that may be derailing or blocking intervention and consensus-building activities. This approach relies on the frame elicitation techniques that are also discussed below.

### **Frame Elicitation as a Prospective Evaluation Technique**

#### Frames and Frame Elicitation

In general, frames refer to the ways people interpret issues and problems.<sup>17</sup> They represent the gestalt that individuals (or groups or organizations) use to make sense of their experience. Bateson used the term to refer to how two people engaged in a playful wrestle can change their interpretation of their interaction to “a fight” if one of them began to use more

aggressive tactics that fell outside the scope of “play.”<sup>18</sup> We generate frames to help us make sense of any circumstances. These frames have been found to have important influences on the processes and outcomes of disputes and negotiations. Parties develop specific interpretations about the issues in a dispute, and about other stakeholders.<sup>19</sup> How participants frame their concerns has profound impacts on how they label the dispute<sup>20</sup> and how they evaluate outcomes.<sup>21</sup> Frames also affect parties’ preferred approaches to settling a dispute.<sup>22</sup>

The role of framing has been examined specifically in environmental disputes. For example, Hilgartner found that industry and labor representatives differed in whether they were willing to link evaluations of economic and health risks in the same equation; the latter considered this as unacceptable framing.<sup>23</sup> In conflicts over nuclear power and hazardous waste cleanup, important differences have been discovered in the way that lay people and technical experts frame the risks associated with the hazards.<sup>24</sup> Lay stakeholders tend to focus on catastrophic extremes regardless of their small likelihood, whereas technical experts trust probabilistic estimates of risk, with catastrophic but unlikely hazards looming much smaller. Unless the parties are aware of these differences and their causes, and can somehow reconcile them, success in consensus-building efforts is hampered.

In a study of eight intractable environmental disputes, Lewicki et. al have identified a typology of 14 different types of frames parties use to make sense of contested issues and their experiences with each other regarding these issues.<sup>25</sup> Differences in how disputants frame various aspects of these disputes can lead to misunderstandings, stalemates, and escalation. If disputants have different views about how social control should be exercised, for example, they may find it difficult to agree on the level of government that should have authority for making natural resource decisions or administering existing policies.

When some disputants frame their conflict as a threat to their identity,<sup>26</sup> it often becomes more intractable, particularly if others discount or denigrate what are core concerns for these stakeholders.<sup>27</sup> On the other hand, if others acknowledge identity concerns (for instance, during a consensus-building process), and regard them as interests that need to be addressed throughout the process, they can alleviate and even overcome the negative effects of these frame differences.<sup>28</sup>

Disputants can hold frames about each other, called characterization frames. Typically, at the onset of an ADR process, disputants’ frames about each other are negative and often encapsulated in stereotypes such as “tree huggers,” “polluters,” “mercurial politicians,” or “square scientists.” Mischaracterizing others, even with positive intent, leads to misinterpreting motives and interests, and to difficulties in crafting mutually satisfactory agreements.

Environmental disputants have also been found to develop frames relating to their beliefs about how disputes should be handled and by whom, who is trustworthy; and what kinds and sources of information they should believe. If a community frames as untrustworthy the government agency with the most access and information about a specific environmental problem, it will discount valuable information from this source, and will try to obtain the same information elsewhere, wasting resources and time.

### The Process of Prospective Evaluation

Historically, evaluation has been conducted after the implementation of processes, policies, and decisions. Almost exclusively, evaluation textbooks<sup>29</sup> offer models and designs that aim to capture ex-post the effects of implemented decisions and programs.

Summative evaluation is immensely useful for those deciding whether to fund or engage in ADR processes. Public agencies are often direct or indirect parties to environmental disputes, and have a critical need for evaluative data<sup>30</sup> that can inform their next choice of conflict management mode. Intervenors also benefit from such information because of their recurrent involvement in disputes.

Disputants in a specific case must choose the process they will use, and they need information to compare ADR to other alternatives. An evaluation after the fact, however, most likely will be of little use to the parties. Instead, they may find ongoing feedback more useful for timely reality checks and course corrections that can improve the odds of a satisfactory process and outcome. Such prospective evaluation can also be useful to intervenors. To a large extent, performing conflict assessments before intervention accomplishes some of this.<sup>31</sup> We propose here that framing information, not usually part of an assessment process and not typically shared with the disputants, can add an important information dimension. It affords disputants and intervenors the opportunity to understand each other and correct misunderstandings that lie at the root of some frames, or that are entrenched through their repeated, shared use. Prospective frame evaluation can enrich assessment and convening efforts by analyzing the parties' and even the intervenors' patterns of sense-making, which may stem from past interactions in long-term environmental conflicts lasting several years and even decades.

Prospective evaluation that elicits stakeholders' frames and offers ongoing feedback cannot, by itself, solve a dispute. In some cases, it may be the very information that leads parties and intervenors to opt out of the ADR process. On the other hand, such information can contribute to a dose of introspection and enhance the mutual understanding of parties, their needs, and role stringencies. It can foster dialogue, which is the most significant achievement in some extremely protracted disputes.<sup>32</sup> Much like Wildavski's self-evaluating organizations,<sup>33</sup> parties and intervenors can benefit from being made aware of their own and each other's prevailing frames. They can then engage in reframing that contributes to the productive management of dispute episodes, even within the framework of long-term, intractable conflicts.<sup>34</sup>

Evaluators feed back their frame analysis to the parties and intervenors during an ADR initiative that occurs before the parties reach the joint decision-making phase. This information can help parties consider whether their own framing of the dispute is useful in light of what they have heard from other stakeholders. It may help stakeholders adopt a constructive collective frame during their deliberations. Next, to illustrate some of these possibilities, we present two cases that used frame elicitation and feedback. We offer suggestions for how to productively couple this evaluation method with retrospective evaluation to enhance the chances of success in multiparty consensus-building processes and to inform sponsoring or participating government agencies on the likelihood of reaching consensus in specific situations.

## **Two Cases Using Retrospective and Prospective Evaluation**

### **Voyageurs National Park**

In 1964, a governor and former governor of Minnesota resurrected proposals originally made by the Minnesota Legislature in 1891 for the creation of a U.S. national park in the northern part of the state. The 1964 initiative led to legislation establishing Voyageurs National Park in 1975, but rekindled a firestorm of controversy that continues to this day. The park, on

Minnesota's northern border with Canada, is largely a water park with resources primarily accessible by boat. It consists of parts of several large lakes, a peninsula between two of them, and many small inland lakes. Unlike that of most other national parks, its enabling legislation permitted fishing, snowmobiling, and the use of motorized watercraft. Before it became a park, the land and water were used for logging operations, private cottages and camps, and hunting and fishing. The federal government's purchase of the land left a bitter taste in the mouths of many, and some challenged the government's appraisals in court and eventually received higher payments for their properties as a result.

By the early 1980s, the park had acquired sufficient lands, but the controversy continued, centering on park officials' decisions to regulate usage to protect certain natural resources, such as gray wolves. For example, the superintendent's decision to close 11 bays to snowmobiling during the winter of 1996 to protect gray wolf habitat infuriated many local residents, who characterized the park's actions as "naïve" and "stupid." In 1995, local resistance culminated in efforts, which eventually failed, to decommission the park. A state-level oversight commission called the Citizens' Council for Voyageurs National Park was at the heart of much of the controversy. The Minnesota State Legislature in 1975 charged the council with delivering community input to the park's management.

The park's enabling legislation provided that park lands undergo evaluation for wilderness designation – an outcome strongly supported by state and federal environmental groups whose actions have also contributed to the conflict's escalation. Motor vehicle users feared loss of all motorized access to the park if this designation were granted for the main peninsula – a prime snowmobiling location. Environmentalists wanted to ensure preservation of the resources for future generations. Through the years, several lawsuits were filed on these issues, and some challenged the park's legal jurisdiction over its water resources. In the early 1990s, a locally brokered compromise proposal and numerous federal court decisions failed to end the conflict. During 1996 and 1997, at the urging of Minnesota's democratic senator Paul Wellstone, concerted efforts were made to settle the Voyageurs controversy through mediation. A panel of 18 people representing various interests in the dispute met for almost a year and a half. However, the process concluded without any agreements, despite the assistance of a federal mediator and a proposed compromise for the peninsula – the result of eight different revisions – between wilderness and snowmobiling advocates .

Retrospective evaluation of this ADR effort is based on one of the author's interviews with 17 of the 18 stakeholders who participated in the mediation, one of the mediators, and several others who closely observed the proceedings, as well as summary minutes of the proceedings. The evaluation suggests at least six reasons for the group's failure to reach agreement:

1. Representation issues plagued the makeup of the group at the negotiation table.
2. Participants did not always adhere to or enforce ground rules for civil behavior at the table.
3. One intransigent party stuck to its original position.
4. Class issues appear to have undermined trust building among the parties.
5. Some parties harbored longstanding suspicion about whether promises and agreements had staying power.

6. There were strong, political overtones to the conflict controversy that may have helped scuttle the possibility of any agreement.

From 1998 to 2000, the park undertook a General Management Planning process to establish guidelines for its next 15 to 20 years. In addition to gathering suggestions and reactions from the community at designated points in the GMP, park management convened a Visitors' Use and Facilities Planning Committee (VUFP) of about 40 stakeholders to provide input on the plan as it was being drafted. During these meetings, many of the previous issues resurfaced in their dialogue.

Following data collection efforts from 1998 to 2000, the researchers, including one of the authors, held two public feedback meetings in which they shared the results of their frame analysis with the attendees. In these meetings, the researchers alternated presenting their analysis conclusions with engaging the participants in brief experiential exercises designed to elicit their frames about the conflict. First, the researchers suggested that the conflict had persisted, in part, because of the different frames that the parties held. To illustrate this, the researchers used "whole story" frames, which encapsulate what parties believe the conflict is about. Participants were asked to exchange their "whole story frames" with someone they did not know. This legitimized each person's frame and allowed participants to hear how others defined and experienced the conflict.

After introducing the notion of negative characterization frames and providing examples from the interviews, the researchers asked people to consider how they acquired information about the conflict and about their opponents, and whether they took it on faith without verification. The purpose here was to raise the possibility that they may wittingly or unwittingly be purveyors of misinformation and rumors that contribute to the perpetuation of their opponents' negative characterizations. The researchers also introduced the participants to identify frames through the use of quotes from the interviews that reflected these strong identifications. Their intention was to help the participants understand the sources of their resistance to each other's proposals. The researchers also demonstrated how power and rights frames contributed to the intractability of the conflict. Finally, the researchers presented back to them their espoused views about how to resolve the conflict. Although most of the stakeholders supported joint problem solving, they differed in who should be included at the table. The researchers suggested that these discrepancies also contributed to the conflict's intractability. The presentation ended with recommendations for moving forward.

Although not many people attended the feedback session, some positive outcomes did emerge there, as some people expressed new awareness about why others took the stance they did, and subsequently when the local newspaper adopted a more conciliatory stance than it had previously taken.

## Doan Brook

Some environmental disputes are incidents driven by crisis but embedded in a long-term stream of recurrent issues related to some natural resource. Others revolve around the environmental consequences of human activities, and they, too, can extend over many years. Often, environmental disputes are about a mix of resource management and human activity problems. They come to the forefront when some incident occurs and sparks a dispute episode, or when public or private entities make decisions with environmental consequences. Arguably,

then, what makes environmental decisions problematic is long spells of inattention to the issues that drive and exacerbate them. For example, during a long-term lack of attention to water quality in a watershed, problems will accumulate and severe deterioration will occur, but most stakeholders will only pay attention to it if an accident occurs or some illness with high public visibility is linked to it. Or, for many years, a local body of water can sustain activities such as boating until there is a public decision to curtail the activity for preservation purposes. Since damage to the environment or to people's health occurs regardless of whether people pay attention to it, dealing with problems when there is no crisis – to the extent possible – would help alleviate some problems before they reach crisis proportions.

The Doan Brook case offers the opportunity to examine some of these issues and to explore the value of frame-based prospective evaluation in enhancing the successfulness of ADR processes.

In a nutshell, in the words of an environmental engineer:

Doan Brook is a watershed near Lake Erie, an urban stream that is suffering from urbanization, (pollution, erosion...), and we are at the initial stages of putting together a plan to reverse those impacts. We've been collecting information for the past year to understand the issues, and we are going through a public process to solve those problems. It's watershed management in the context of public consensus.

While this is an accurate snapshot of the moment, Doan Brook took many years to become the urban watershed and the public resource it is today. At the beginning of the twentieth century, as open space was rapidly becoming built up, rare foresight and several generous donations of land and maintenance funds made a string of parks out of this brook that crosses Cleveland and two of its suburbs on its way to Lake Erie. As the build-up continued around it, this piece of nature was subjected to increasing stresses typical for urban watersheds. Today, its water quality is so poor it does not permit much more than looking at it, and at the scant wildlife it still harbors. In addition, its forced course through channels and culverts is causing disruptive flooding in one of Cleveland's hubs and in several of its neighborhoods.

For the last 25 years, a small but faithful, mostly suburban group of champions led by the Nature Center at Shaker Lakes have been trying to protect and improve Doan Brook. However, although the group counts among its victories the defeat of a highway that threatened to destroy the brook, on the whole it has not been successful in implementing any significant improvement and maintenance decisions outside of sporadic responses to small crises.

This lack of success is rather surprising, given the widespread affection the brook and its parks enjoy. Residents seem to appreciate the brook, but are largely unaware of its problems and are therefore reluctant to allocate resources for its improvement, or to modify some of the behaviors that hurt it, such as heavy use of lawn fertilizers and pesticides or cleanup of pet waste. This situation poses an interesting dilemma for environmental ADR: there is no active dispute, rarely a crisis, but no action, either, while this unique resource deteriorates rapidly.

It is worth noting that residents along the brook are not an indifferent lot; past incidents suggest that they react rapidly to oppose actions they deem contrary to their interests. So there is latent conflict around brook issues. For instance, many expect that any move to secure funding through taxing would be met with lively opposition. Past small-scale initiatives for change in the watershed have also been disputed and opposed, especially in the suburban stretch. Recently, for example, some neighbors, claiming aesthetic reasons, secretly planted a couple of willow trees in

the middle of the brook, on a sandy high spot favored by nesting birds. This incident made waves far greater than could be expected based on the scale of the deed, and generated controversy that went well beyond the willows to include issues of decision-making authority and process.

Over the years, Doan Brook's latent conflict situation has surfaced occasionally in a stream of encounters among stakeholders, with no long-term plan or action and only stop-gap measures in response to crises such as the latest flood or the current "greening" of one of the lakes caused by algae cover fed by fertilizer runoff. Retrospective evaluators examining past interactions regarding the watershed would have to struggle with questions such as:

- Is the unit of observation and evaluation a dispute episode or the persistent, latent conflict underlying it?
- What would the evaluators and the stakeholders consider to be a good outcome? For whom? Should the criteria apply to dispute episodes or to the underlying conflict?
- Does framing information help understand the observed dynamics over time?
- If stakeholders appear to be able to live with the status quo, is the continuous environmental deterioration of the watershed a concern? Whose?
- What process would be suitable for making decisions concerning the brook's future, and what would be the alternatives with which such a process would be compared?

While the prospective evaluator might also be concerned with these issues, he or she would also face the challenge of understanding enough about the situation as a dispute episode is unfolding, to be able to make process suggestions to the stakeholders and assist them in understanding the past and present, to benefit the future. In many environmental cases, intervenor and evaluator alike enter at neither beginnings nor ends of incidents, but rather at moments in a long string of interactions involving the same cast of parties – place-, role-, or interest-bound – over many years. By necessity, assessments and evaluations at such points combine retrospective and prospective aspects.

In the case of Doan Brook, after 25 years of attempts to protect and improve the watershed through small-scale initiatives, in 1999, the Northeast Ohio Sewer District (NEORS), under EPA mandate to attend to water quality, initiated a two-year study of the brook coupled with a participatory process that involved a study group of residents, elected officials, service staff, and NEORS consulting engineers meeting monthly for two years to understand the problems and explore solutions. The process concluded in the spring of 2001, with the NEORS reporting on the collected data and on the measures it proposed to undertake – largely building underground tunnels to improve water quality. However, the study group identified many more needs not under NEORS jurisdiction, which remain unattended unless the communities surrounding the watershed can come together and decide on management and protection measures. Although study group participants were satisfied with the NEORS process overall, they are now only wiser from it (from the detailed data collection), not further along – many agreed on needs, but no actions were implemented.

During 1999, 50 hour-long interviews were conducted with participants in this process and other watershed stakeholders. Frame analysis revealed that:

- Residents of Cleveland and the suburbs had images of each other (characterization frames) that were not accurate and could account for the past difficulties in involving Cleveland residents in watershed efforts. Suburbanites thought they understood the problems of the mostly low-income Clevelanders, and their supposed lack of interest in environmental matters. The reality is quite different: Cleveland neighborhood organizations have a keen interest in environmental quality in general, and in Doan Brook in particular.
- A few service staff and engineers held characterization frames about environmentalists that could have made dialogue difficult, but many welcomed the dialogue and the opportunity to explain their approach to the lay public. In general, representatives of institutions and agencies offered characterizations of others more frequently than residents.
- There was widespread resident trust in NEORSO-produced data and in its intricate model of the brook that enabled exploration of various solutions to the flooding and water quality problems.
- Conflict management frames, regarding how decisions should be made and by whom, diverged: while interviewees agreed someone should do something about Doan Brook, most respondents did not deem themselves to be those who could or should act. In other words, everyone thought someone else should take charge and solve the brook's problems, with the unsurprising exception of NEORSO engineers who thought they should attend strictly to the problem of water quality, over which they had jurisdiction.

One of the authors reported the discovered frame patterns to the interviewees, who found the information (particularly the conflict management frames and frames of each other) useful for their next steps. A councilwoman at the February 2001 meeting of the Joint Committee on Doan Brook said the following:

We were thinking for a year about a structure to go forward. ... We built a foundation and got educated as we considered options. A couple of other resources went into the thinking. One is [one of the author's] project. She studied us and came up with some recommendations about the need for a partnership. They made a significant contribution.

According to the meeting participants, the realization that the long-term lack of action could be related to the wide-spread perception that Doan Brook was someone else's responsibility contributed to the new-found resolve to form a funded partnership that could make and implement watershed management decisions. The emerging design has focused on ensuring that the new entity will have broad participation from Cleveland and the two suburbs, to be in position to engage in implementable projects rather than in friendly discussions that leave the real problems unattended. The information about the difference between how suburbanites framed Cleveland residents and how the Clevelanders saw themselves is giving impetus to new collaborative and more inclusive efforts. In the fall of 2001, many of those involved in the NEORSO process joined a

Doan Brook Watershed Partnership that is striving to use the framing feedback to increase its efficacy.

The framing analysis revealed information that stakeholders in the Doan Brook found helpful not only in retrospect, but also for their next steps. In this sense, it was prospective. It could not, however, replace other types of evaluation. For instance, as an institution not accustomed to participatory decision-making, the NEORSD made some choices that ADR professionals would find inappropriate. Although watershed residents were involved, they did not represent any constituency and did not report to anyone, so awareness of this process beyond its participants was extremely low. In addition, the NEORSD structured the process in a way that left relatively little room for input from the participants, who nevertheless went along with it and were quite satisfied, often framing the process as a desirable way of making the kinds of decisions the group faced.

The participants' satisfaction poses an interesting dilemma: should anyone alert happy participants that their participation is less meaningful than it could be? The outcome most participants predicted and thought they would dislike – massive concrete underground tunnels – will be implemented. Is the current satisfaction a result of dialogue that worked or of the NEORSD's successful persuasion through use of data that tunnels are the best solution, or is the satisfaction with the outcome a by-product of satisfaction with the consultative process? If the latter is the case, one might expect difficulties at implementation time, since (even if it is indeed a good solution or the only feasible one) residents will continue to dislike it and the majority of them were not even involved in the consensus-building effort. Finally, although all problems other than water quality have not been resolved, as the NEORSD has repeatedly reminded everyone throughout the study process, only a small core of the participants is determined to act and formed the partnership that could halt deterioration and restore the brook.

A more general evaluation challenge stemming from the Doan Brook case is related to the definition of success in situations that are ongoing, with slow damage over time that does not seem to affect anyone in the short run, until it is too late to act and environmental effects are irreversible or too costly to remedy. In the Doan Brook case, further framing analysis might help decipher the reasons behind the avowed public affection for the brook and seemingly contradictory reluctance to do anything to protect it, whether individually or collectively.

## Conclusions – Lessons Learned

Prospective evaluation – giving feedback to parties while the ADR process is unfolding – is not common practice, but it is gaining currency. It holds considerable promise as an aid to consensus building and intervention. Prospective evaluation can help both the parties and the intervenors by increasing the effectiveness of ADR processes. The goal is to share lessons with those who most need it, rather than wait for the process to be concluded, then studying what went right or wrong. In addition, prospective evaluation may also help intractable conflicts become unblocked. Key obstacles to this practice include lack of awareness of the benefits and techniques, limited funding of ADR processes, and the broader challenges faced by both prospective and retrospective evaluation of ADR discussed earlier.

Both the Voyageurs and the Doan Brook case had an opportunity to “evaluate” or assess parties' frames and then give the parties feedback they could use for making progress in the disputes. These cases suggest there is reason to consider and further explore prospective evaluation activities including frames elicitation and analysis. The proposed incorporation of

framing information in both types of evaluation appeared useful in the two cases presented here. It held some surprises for stakeholders, debunked some myths, and revealed interpretations of the situation and of the other participants that hampered consensus building. The frame analysis was useful in understanding past events and in shaping subsequent interactions among the stakeholders. It seems to be a promising tool to add to the conflict assessment processes that frequently precede intervention.

Like assessment preceding ADR intervention, the frame-based component proposed and illustrated here yields information that helps assess whether intervention is appropriate and has a chance of success, however defined in each situation. The framing diagnosis, shared with those who most need it, could become part and parcel of ex-ante efforts such as convening, which itself consist of interviewing individuals as in the two cases described. While it is unlikely to turn a protracted dispute into a series of friendly encounters, it can inform potential sponsors and intervenors about the chances that ADR would succeed and help them understand what kinds of reframing are necessary to get a consensus-building process underway. A framing diagnosis can also help parties consider from the outset of an ADR process whether their own framing of the dispute serves them well in light of what they hear from other stakeholders, and it might help them reframe to improve the dialogue.

Further research is needed to strengthen the usefulness of frames assessment as a prospective evaluation tool. Comparison among cases like Voyageurs and Doan Brook, which extend over many years but differ in their level of protractedness, might suggest which frames could be viewed as “canary in the mine” frames, or indicators of a situation’s resistance to resolution. Analysis of environmental disputes that took a long time to resolve might reveal some “inflexion point frames” – frames that changed over time and could be linked to change in the character of the dispute. For example, some characterization frames that changed from negative to positive might be associated with improved relations among stakeholders and even progress toward resolution, while changes from positive to negative might be associated with new obstacles to dialogue. Similarly, changes from conflict management frames that favor dialogue to perceptions that a situation is best handled in court might mark a change in strategy or willingness to accommodate others, or even a political change perceived to favor some side in the conflict. On the other hand, since the nature of relations among stakeholders is thought to play an important role and is a typical dimension of retrospective evaluation, finding that such frame changes have no effect on the course of the dispute might help intervenors turn their efforts in different, more productive directions. Such information might also tell us which frames are susceptible to information and more amenable to change through persuasion or intervention. Lastly, if frames assessment is to be valuable to disputants, it is important to design and test alternative means of frame elicitation and feedback to identify those that are productive in effecting frame changes that can help the dispute process.

Can prospective framing information be useful to government agencies involved in, or sponsoring ADR processes? Does it hold any retrospective evaluative value? It is likely that for an agency playing an active role in a consensus-building process, framing information can play the same role as for any other stakeholder? For example, community representatives personalize agencies and often miss their discrete, changing human composition. Instead, agencies tend to be viewed as immutable and having their own “character.” Framing information can alert current agency representatives about community views based on interactions with others especially in disputes unfolding over a number of years. As community representatives react

sharply to their own frames of agency bureaucrats, these can better understand and take in stride hostility. Measures can be taken to relieve it through reframing efforts.

More generally, framing information can shed light on some deeply seated concerns and values that are apt to polarize a situation or lead to escalatory moves. It can also help predict when, in certain situations, consensus building stands little chance of success. Finally, framing information can also be used to make sense retrospectively of the dynamics of an ADR initiative, leading to better understanding for future interactions with the same stakeholders. Although more research is needed to streamline frame elicitation and make the best of its results during disputes and in their aftermath, it seems that framing information adds a needed dimension to prospective and retrospective evaluation.

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### Notes

- <sup>1</sup> Juliana Birkhoff and Gail Bingham, "Defining Success – What is Success in Mediation and What does the Filed Want to Know about Success?" Paper prepared for Building Bridges Between Research and Practice: What is Success in Public Policy Dispute Resolution? Sponsored by RESOLVE and NIDR, June, 1997); Judith E. Innes, "Evaluating Consensus Building," in *Consensus Building Handbook*, ed. Lawrence Susskind, Sarah McKernan, and Jennifer Thomas-Larmer (Thousand Oaks, CA: Sage, 1999): 631-675; and Tamra Pearson d'Estrée et al., "Criteria for Evaluating Successful Environmental Dispute Resolution" (Unpublished, 1999).
- <sup>2</sup> Karl Weick, *The Social Psychology of Organizing*, 2<sup>nd</sup> ed. (Reading, MA: Addison Wesley, 1979) and Karl Weick, *Sensemaking in Organizations* (Thousand Oaks, CA: Sage, 1995).
- <sup>3</sup> See for example, Gail Bingham, *Resolving Environmental Disputes: A Decade of Experience* (Washington, D.C.: The Conservation Foundation, 1986) and D'Estrée et al., "Criteria for Evaluating Successful Environmental Dispute Resolution."
- <sup>4</sup> Tamra Pearson d'Estrée et al., "Criteria for Evaluating Successful Environmental Dispute Resolution."
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  - <sup>14</sup> Judith Innes, "Evaluating Consensus Building" in *Consensus Building Handbook*, ed. Lawrence Susskind, Sarah McKernan, and Jennifer Thomas-Larmer (Thousand Oaks, CA: Sage, 1999): 631-675.
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  - <sup>18</sup> Gregory Bateson, *Steps to an Ecology of Mind*.
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