

FACILITATION, CONFLICT MANAGEMENT & DISPUTE RESOLUTION

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Facilitation	Capacity Building
Mediation	Consensus Building
Conflict Assessment	International Programs
Settlement Counsel	Dispute Resolution Training
Arbitration	Project Management and Evaluation

Joe McMahon has worked in decision-making and conflict management/resolution for the last fourteen years, and served as a legal counselor/trial lawyer in the preceding thirteen years. In conflict management and resolution, he has been a mediator, facilitator, settlement consultant, arbitrator, lecturer and trainer. Joe's special interests in conflict management and resolution are (1) improving communication, (2) ensuring that the power of resolution remains with the parties, (3) developing better resolution options, (4) using analytic approaches to facilitation and (5) the avoidance of decision-making errors. In commercial conflict resolution, he works to avoid the common "settlement culture" of positional bargaining by moving to processes centered on improving the participants' options. Prior to working in conflict management, Joe was a registered professional engineer working on water disputes, inter and intra-state water allocation, hydrology and the design and construction of water supply, river improvement, parkways, drainage and irrigation projects.

Joe received his initial mediation training in 1991 at the Center For Mediation in Law, and since that time has devoted his principal energies to the field of conflict management and resolution. He has facilitated or mediated multi-party public, environmental, organizational, and commercial matters. Joe has also worked with several international agencies and organizations in managing projects in developing countries, and has facilitated consensus building exercises in Asia and Africa.

Joe has assisted parties in addressing complex, challenging and sometimes highly contentious issues regarding regulations, strategic planning, communications, technology, natural resources, transportation, water use, environmental issues, board/staff relations, land use, transportation and commercial litigation. His consultations and projects include public, environmental disputes and inter-governmental (national, state and county) disputes over public land, fire protection, Clean Water Act, trespass claims, river basin water allocation and transportation/planning disputes among communities. In legal disputes, he has extensive experience in multiple roles including as an arbitrator, mediator, special master and trial/appellate lawyer.

Among Joe's international projects are efforts in East Africa, where he facilitated the formation of a new partnership among East African Nongovernmental Organizations providing water and aid in urban slums with NGOs from Malawi, Kenya, Tanzania, Uganda and Zambia (November, 2002 to date), and Manila, where he assisted water and environmental professionals in South East Asia building consensus around the use of certification standards for water and waste water treatment (February, 2003). Joe has also overseen the management of water and environmental projects in Viet Nam, and five East African countries, and consulted on the use of multi-sector partnerships to provide water to low income communities.

CASE & PROJECT LIST

INTERNATIONAL

Facilitator, organizational consultant, Water For People – Bolivia, Water For People – Uganda, 2009. Consultation and facilitation concerning “inter-connected development” in which an NGO forms and facilitates a WASH association (government, agencies and businesses) that develop local solutions to water and sanitation.

Research, Ministry of Foreign Affairs, The Netherlands, *Typologies of collaboration*, 2009. The Dutch Foreign Ministry asked Joe to draft a short research paper to be used to assess the performance of various types of collaborative associations.

Facilitator and researcher, INTRAC, *Effects of Counterterrorism laws and practices on nonprofits*, 2005-2007. Joe has been asked to facilitate parts of an multicountry initiative to study the effects of counterterror laws and strategies on international nonprofits working in development in low income countries. This included drafting articles for publication and facilitation of meetings in The Netherlands and Washington DC.

Facilitator, Water For People, *Program Strategy*, 2006/07. Joe has been engaged under Inter-Mediation, to assist the design of Water for People’s India strategy for water and sanitation. This program will the development of changes to program operating concepts to bring work more in line with the newer thinking on the role of nongovernmental organizations from developed countries – moving away from short term projects to long term partnerships.

Facilitator, Eastern and Central African Peri-urban Water/Sanitation Partnership, 2005. At the request of Water For People and USEPA, Joe facilitated efforts and workshops to form an alliance of African NGOs working in water and community mobilization in slums in Malawi, Zambia, Kenya, Uganda and Tanzania.

Facilitator, *Research on the Effect of Counter terror Laws on International NGOs*, 2005. Joe formulated a concept and is developing with Alan Fowler (RSA) and INTRAC (UK) a research and educational project looking at the effect of counter terror laws on international development.

Research Team member, *Building Partnerships for Development*, London, 2004. At the request of London-based Business Partners for Development, Joe joined a team that is assessing methods to improve effective dialogue among stakeholders engaged in the water/sanitation sector to determine how they can become more effective at meeting the needs of economically poor communities in low income countries. The product of this project will include recommendations on the creation and best structures for multi-sectoral partnerships in development. Published as co-author “The Partnership Paperchase, Structuring Partnership Agreements in Water and Sanitation in Low-Income Communities,” Nov., 2004

Program Planning Consultant to Water For People, 2004. WFP engaged Joe to assist in the planning and training component of a planned East & Central African water, sanitation and hygiene education project in urban settlements.

Founder, *Inter-Mediation.org* 2004. In partnership with Alan Fowler of South Africa, Joe has founded an NGO and project designed to advance the use of neutral dispute processes in the international development system.

Consultant to *Community Integrated Development Initiatives (a Ugandan NGO)*, 2004-05. CIDI engaged Joe to assist in the planning and training component in a U.S. Institute of Peace funded project on using community forums to address social conflict. Water,

environmental and health are used as an entry and mobilizing point to start community peace building discussions.

Co-facilitator, USEPA & Water For People Workshop, Tanzania, November, 2002.

At the request of the EPA and Water For People, Joe facilitated discussions and negotiations among NGO representatives from Kenya, Tanzania, Malawi, Uganda and Zambia to assist (a) the participants in disseminating lessons learned by NGOs working in urban settlements in East Africa and (b) the formulation of methods to continue work on cross cutting issues in providing water, sanitation, capacity building and health education in East African Urban settlements. The workshop resulted in an important exchange of ideas and the formation of ECAPP, an East and Central African NGO partnership to continue their joint efforts.

Workshop Co-facilitator, United States Asia Environmental Partnership, Manila, 2003. Joe co-facilitated a USAEP workshop to assist the development of water association certification and training support. The workshop was sponsored by the Southeast Asia Water Utilities Network, USAID and Water Environment Association of the Philippines and included representatives of the Philippines, Malaysia, Indonesia, Thailand and Viet Nam. Joe assisted the country representatives in discussions about how they could collaborate on establishing a common certification plan and assisting them in defining a plan for further work to ensure more effective water and environmental certification programs in their countries.

Grant applications and program development – various NGOs. Joe assisted various non profit organizations and collaboratives in program design and funding applications including ECAPP (Eastern and Central African Peri-urban Project, Blantyre Malawi), CIDI (Community Integrated Development Initiatives, Kampala, Uganda), Cebu Mediation Foundation, (Cebu City, Philippines) and Ayundanós Para Ayudar (San Juan de Lurigancho, -Lima, Peru).

Program co-designer, Water For Africa, 2000-2002, a joint USEPA and Water For People Program. Joe was asked by USEPA and WFP to co-design an international capacity building program in Africa that enhances the health of urban residents living in settlements. The design included assessments of potential partners, defining selection criteria, partner selection, structuring partnership agreements, creation of grant processes/documents, and programs to monitor and assess effectiveness.

Facilitator, Water For People-Province of Thua Thien, Viet Nam, School Water & Sanitation Program, 1994-1999. WFP and Friendship Bridge asked Joe to facilitate the negotiation and implementation of programs in central Viet Nam to improve health in schools. Joe served as co-coordinator of the program and the creation of a partnership between WFP and Thua Thien Province, in Viet Nam.

Co-designer, Water For People, Ministry of Construction, Colorado State University, Urban Drainage Workshop, Ha Noi, Viet Nam, 1995. Joe co-designed and facilitated the first workshop on Urban Drainage presented in Viet Nam.

Regional Conference on Reform of the Water Sector, Kampala, Uganda, 2001. Joe served as a WFP representative at the Kampala, Uganda Conference to network and share ideas among environmental and water NGOs.

International related presentations, articles or associations:

- Co-author (with Alan Fowler), “A Role for Partnership Facilitation? Negotiating Goodbye While Saying Hello”, *Alliance*, Vol 9, No 2, June 2004
- Program Committee Chair, Water For People, Denver, CO., USA, 2001-2003.
- Committee Chair, Program Effectiveness Committee, Water For People, Denver, CO., 1997-1999.
- Member, CPR Institute (NY), US-China Business Mediation Panel.

- Presenter, *Water For Africa*, Graduate School of International Studies, Univ. of Denver, Nov., 2003
- Presenter, *Water Issues in Viet Nam*, American Water Works Association, Annual Conference, Toronto, 1997.
- Facilitator, *Water Drainage Issues in Viet Nam*, Ha Noi, 1997 (joint effort of Water For People and Colorado State University).
- Coordinator of *Source Water Protection Conference* in Hue, Viet Nam, 1998.

ENVIRONMENTAL QUALITY, PUBLIC LANDS

Facilitator, Edwards Aquifer Restoration Implementation Program, 2009.

Facilitating the Edwards Aquifer RIP steering committee in development of a habitat restoration program.

Facilitator, formation of California Gulch Citizens Advisory Group, 2009. Assisted in the formation of the Citizens Advisory Group.

Facilitator, Colorado – EPA nonpoint source workshop, 2009.

Facilitator, California Gulch, EPA, Colorado, Lake County and Leadville, 2007-2009. Conducted a situation assessment aimed at looking at resolution of pending matters needed to resolve California Gulch conflicts, facilitated discussion of party interests and technical and legal conflicts.

Co-Facilitator, Missouri River Restoration Implementation Committee (COE, FWS, EPA, NPS, States of the Missouri River Basin and various stakeholders), 2005. The U.S. Institute for Environmental Conflict Resolution and stakeholders selected a team of facilitators, including Joe, to facilitate water allocation discussions among key stakeholders on the longest river in the US - the entire Missouri River main stem. As co-mediator, Joe made proposals for moving through complex technical and political conflicts about balancing the competing water needs of endangered species requirements, other Congressionally mandated uses (flood control, navigation) and water supply, tribal, recreation, and power generation.

Facilitator, Lowry Landfill Superfund site (EPA, State of Colorado, City of Denver and Waste Management Inc.), 2004-05. The U.S. EPA, State of Colorado, City of Denver and Waste Management Inc., engaged Joe to facilitate a series of meetings among experts to assess the potential for modifying the site model in response to theories on specific preferential groundwater migration pathways.

Facilitator-mediator, Rocky Mountain Arsenal, (US Army, State of Colorado, citizen groups) 2002. The U.S. Army and State of Colorado engaged Joe to plan, and then facilitate, a series of meetings designed to exchange information among participants who were in an intense dispute concerning the effect on ground water of chemical residue resulting from munitions development, storage and destruction. He provided a structure for, and facilitated, a series of complex technical exchanges that provided parties and local citizens with greater clarity concerning the health risks posed and treatment options. Joe also assisted parties to engage in interest based bargaining.

Mediator, Jarbidge/Elko Nevada Public Lands Litigation, (State of Nevada, Elko County, U.S. Department of Justice, and others) 2001. The U.S. Institute for Environmental Conflict Resolution asked Joe to serve as a mediator in a highly contentious multi-party conflict concerning public access to forest land including the issues of Endangered Species, fire control, and local vs. national control of assets and decision-making. Joe conducted an informal situation assessment, consulted with the USECR and participants, and designed and proposed a series of meeting to address the issues – through joint training sessions and mediated negotiations. The process resulted in a draft agreement to be presented to each government's ratifying authority.

Mediator, Superfund PRP Cost Allocation Dispute, Wyoming (parties confidential), 2003. Joe was asked to assist parties in a dispute over cost allocation in a Superfund site. Joe conducted an informal conflict assessment and assisted the parties in reaching a negotiated agreement to resolve all pending issues.

Arbitrator, Mining Agreement dispute, 2003-4 (parties confidential). Joe was asked to arbitrate disputes concerning the effect of environmental enforcement actions on the parties' mining agreement obligations.

Mediator/settlement counsel (parties confidential) 1995-present. Joe has served as mediator or settlement counsel in many varied environmental cases involving: apportionment of responsibility for environmental degradation, parties seeking alternative dispute resolution for environmental suits, personal injury claims relating to environmental degradation and risk assessment.

Legal counsel, Wyoming, Public-private land disputes (various land owners and U.S. Department of Justice). Joe served as co-counsel on various public-private land disputes over the location of public-private land boundaries on the Snake River and establishment of survey accuracy and methods.

Environmental related presentations or associations:

- Senior Fellow, Center for Natural Resources and Environmental Policy, University of Montana.
- *Approaches for Managing Large Multi-party Cases When Things Start to Go Wrong*, co-facilitator, Environmental Conflict Resolution 2008, Tucson, May 2008.
- *Assessing Environmental ADR and Improving Your Own Conflict Skills*, Annual NEPA Conference, Denver, December 2007.
- *Using Conflict Assessments in Environmental Conflict Resolution*, 4th Annual NEPA Conference, Denver, January 2007.
- *Endangered Species Act Meets Environmental Conflict Resolution*, 11th Annual ESA Conference, Tucson, November, 2005.
- National Roster of Environmental Conflict Resolution and Consensus Building Professionals, U.S. Institute for Environmental Conflict Resolution, Tucson, AZ.
- Environmental Panel, CPR Institute for Dispute Resolution, N.Y., N.Y.
- *Interest-based Bargaining in Environmental Disputes*, Rocky Mountain Association of Environmental Professionals, May 2001.
- *Ethics in Environmental Negotiation*, Colorado Bar Assn., Environmental Law Section, December 1999.
- *Interest-based Bargaining in Environmental Disputes*, Colorado Bar. Assn., Environmental Law Section, January 2001.
- *Mediation Styles*, U.S. Institute for Environmental Conflict Resolution, May 2000.
- *Guiding Institutions and Organizations Through Mediation: A Hypothetical Based on the Snake River Adjudication*, panel facilitator, U.S. Institute For Environmental Conflict Resolution program on ADR and Natural Resources/Environment, May 2000.
- Co-author with E.M. Thiessen, *Beyond Win-Win in Cyberspace*, discussion of resolution of environmental disputes using "negotiation support systems" and facilitation, *The Ohio State Journal of Dispute Resolution* (15 Ohio S. J. of Disp. Res. 643 [1999]).

WATER

Facilitator, Edwards Aquifer Restoration Implementation Program, 2009.

Facilitating the Edwards Aquifer RIP steering committee in development of a habitat restoration program that include aquifer improvement programs.

Mediator, 2009, construction activities on repairs to waster water treatment plant.

Facilitated parties in resolving disputes over construction delay and change order disputes.

Conflict assessment, reservoir operational dispute, 2007. Conducted assessment for the Bureau of Reclamation of dispute between upstream and downstream water users.

Lead Facilitator, Comprehensive Aquifer Management Plans, Rathdrum Prairie and Treasure Valley, Idaho, 2009. Engaged by the Idaho Department of Water Resources to facilitate plans in association with the Center for Natural Resources and Environmental Policy.

Mediator, dispute over aquifer pollution during coal bed methane drilling. Disputes over the effects on water quality of overlying land owner.

Mediator, disputes over operation of water system, 2007. Mediation of litigation regarding rights to use and operation of water system serving adjacent communities.

Facilitator, recreational in channel diversion case, 2007. Facilitation of multiparty dispute in water court over recreational in channel diversion and potential effects on other water rights.

Mediator, dispute over water rights and usage, 2007 (parties confidential). Joe was selected to mediate a dispute over disputes regarding the historic and proper use of water on irrigated lands.

Mediator, dispute over ditch company right of way, 2007 (parties confidential). Joe was selected to mediate a dispute over claims of infringement of a ditch company right of way.

Facilitator, Water and Conflict Strategy, 2006 (parties confidential). Joe was engaged by a water users organization to assist them in developing an organizational strategy to address conflict over water and search for approaches that minimize litigation and maximize the opportunities for collaboration.

Mediator, reservoir usage dispute, 2006 (parties confidential). A reservoir company, recreational organization and member asked Joe to facilitate the resolution of litigation over reservoir usage.

Co-Facilitator, Missouri River Restoration Implementation Committee (COE, FWS, EPA, NPS, States of the Missouri River Basin and various stakeholders), 2005. The U.S. Institute for Environmental Conflict Resolution and stakeholders selected a team of facilitators, including Joe, to facilitate water allocation discussions among key stakeholders on the longest river in the US - the entire Missouri River mainstem. As co-mediator, Joe made proposals for moving through complex technical and political conflicts about balancing the competing water needs of endangered species requirements, other Congressionally mandated uses (flood control, navigation) and water supply, tribal, recreation, and power generation.

Mediator, water district valuation dispute (US Department of Justice, Department of Navy and local irrigation district), 2004. The U.S. DOJ and Department of Navy and a local irrigation district engaged Joe to mediate a dispute concerning the proper valuation of lands and water taken in condemnation, and dispute over applicable legal standards.

Facilitator, Lowry Landfill Superfund site (EPA, State of Colorado, City of Denver and Waste Management Inc.) 2004. The U.S. EPA, State of Colorado, City of Denver and Waste Management Inc., engaged Joe to facilitate a series of meetings among experts to assess the potential for modifying the site model in response to theories on specific preferential groundwater migration pathways.

Mediator, reservoir dispute, 2002 (parties confidential). Joe served as a mediator among multiple co-owners of a water reservoir in disputes over operation of the structure and

transmission of water. The process resulted in parties seeing options for use that could reduce conflict.

Mediator, reservoir ownership dispute, 2002 (parties confidential). Joe was asked to serve as a mediator in a dispute over the ownership and future of a water reservoir. He guided discussions about common and competing interests to engage the parties in interest-based bargaining.

Mediator, irrigation ditch owners dispute (parties confidential). Joe facilitated discussions among co-owners of a ditch to resolve disputes concerning a land purchase agreement.

Program Facilitator/consultant, Water For People, Viet Nam Program (1994-99) and **Water For Africa consultant, 1999-2003**. Joe worked as a co-facilitator of a program that identified suitable partners (government partners in Viet Nam) and NGO's from five East and Central African countries), negotiated grant terms, and participated in evaluation of the projects.

Legal Counsel, water litigation. Joe served as legal counsel in a wide variety of legal and operational disputes over water, water rights, priority of usage, competition among various water decrees, the adjudication and transfer of water rights, including litigation of disputes concerning ground and surface water competition, and the operation of the interstate water compacts.

Engineering consultant, water and rivers, 1972-1975. Joe served as an engineering and technical consultant on a variety of water related projects including hydrology, watershed evaluation, storm runoff modeling, river improvement, irrigation, dam design and construction, water rights evaluation and litigation support.

Water related presentations or associations:

- *Engineers' Guide to Arbitration, Mediation and Conflict Resolution*, co-presenter, American Council of Engineering Companies of Colorado, April 2009.
- Water track facilitator, *Sustainable Resources 2003* Conference, Boulder, CO., Oct. 2003.
- Registered Professional Engineer, State of Colorado, 1975 (practiced as Water Engineer from 1972-1977).
- Presenter, *Water Issues in Viet Nam*, American Water Works Assn., Annual Conference, Toronto, 1997.
- Facilitator, *Water Drainage Issues in Viet Nam*, Ha Noi, 1997 (joint effort of Water For People and Colorado State University).
- Program co-planner of the *Source Water Protection Conference* in Hue, Viet Nam, 1998.

OIL & GAS

Mediator, dispute over aquifer pollution during coal bed methane drilling. Disputes over the effects on water quality of overlying land owner.

Mediator, class action dispute over payment of royalties on gas wells, 2007-08 (parties confidential). Mediation of payment disputes among interest and royalties owners and the field operator.

Mediator, dispute over nature of the interest in oil and gas properties granted, 2007 (parties confidential). Joe was asked to mediate a dispute among operator and investors over the nature of the interests conveyed in a joint venture agreement and future participation rights.

Panel Chair, Arbitration over gas compression dispute, 2006-2007. (parties confidential). Joe was selected as panel chair on a multi-million dollar dispute over claimed breach of an agreement for provision of gas compression equipment.

Panel Chair, Arbitration over Exploration and Development Agreement dispute, 2006 (parties confidential). Joe was selected as panel chair for a dispute of alleged breaches or enforcement of an Exploration and Development Agreement, involving heavy oil and thermal processes.

Mediator, dispute over Joint Operating Agreement and accounting/bankruptcy issues, 2004 (parties confidential). Joe mediated a dispute over accounting disputes under joint operating agreement and other transactions.

Mediator, dispute over alleged breaches of a coal bed methane exploration and development agreement, 2004 (parties confidential). Joe mediated a dispute over Wyoming properties and alleged breaches of the parties' development agreement, including disputes over misrepresentation, delayed development and accounting.

Mediator, coal bed methane agreement, 2002 (parties confidential). Joe worked with the parties and legal counsel on a Wyoming dispute over the joint operations of certain facilities and the nature of rights in 'farm out' agreements. The process led to a settlement among the disputants.

Mediation – dissenting shareholder. Joe was asked to mediate a dispute over the value of dissenting shareholder rights in an energy company, involving the valuation of reserves.

Mediation – dispute over gathering and processing. Joe mediated a dispute concerning the parties' rights to use of various components of a gathering and transmission system.

Legal counsel (1978-2001). Joe provided legal counsel in various disputes oil and gas disputes including disputes over exploration rights, conflicts between the surface and mineral estate, and natural gas re-pricing disputes.

Oil & Gas related presentations or associations:

Member, Oil & Gas Panel, CPR Institute for Dispute Resolution, N.Y., N.Y.

NATURAL RESOURCES AND MINING

Arbitration, coal mining construction dispute, 2009. Service in dispute over construction of coal mining equipment and processes.

Arbitration, Panel Chair, Mining Agreement dispute, 2003 (parties confidential). Joe was asked to serve as panel chair in an arbitration to resolve disputes concerning the effect of environmental enforcement actions on the parties' mining agreement obligations.

Mediator, Joint venture dispute between mining and non-mining railway traffic, 2002 (parties confidential). Joe was asked by both parties in a joint venture to facilitate discussions of options to improve working relationships among the owners over competing uses for a jointly owned rail line. He facilitated a discussion of the various options to improve interests of each party and avoid future disputes.

Legal Counsel (1978-2001). Joe was legal counsel for various entities in mining and mineral disputes including coal, precious metals (gold, silver, zinc), industrial minerals, exploration agreements, rights to geophysical data, option agreements, the validity of mining claims. As a result, Joe gained expertise in mining disputes including underground mining, mining location and claims, open-pit mining, exploration, royalty calculations, and transportation of minerals.

Natural Resources/Mining presentations or associations:

- Senior Fellow, Center for Natural Resources and Environmental Policy, University of Montana.
- *Improving ADR in Natural Resource and Energy Disputes*, Colorado Bar Natural Resource and Energy Section meeting, March 2004, Denver.

- *Negotiating and Drafting Agreements-Lessons from the Courthouse*, 41 Proceedings of the Rocky Mountain Mineral Law Institute 4-1 (1995).

ENERGY

Arbitration panel chair, energy generation dispute, 2009.

Arbitrator, Geothermal resource dispute and valuation, 2007. Arbitration of dispute over alleged breaches of geothermal agreements and valuation of geothermal resources.

Arbitrator, Geothermal Power Sales Agreement dispute, 2005. Arbitration of a dispute over terms of a geothermal PPA.

Arbitrator, Power Development and Sale Agreement, 2005 (parties confidential). Joe was asked to arbitrate a dispute over the effect of environmental litigation on the terms of an agreement to develop and sell power.

Arbitrator, Power Purchase and Sale Agreement, 2003 (parties confidential). Joe was asked to arbitrate a dispute concerning claims of breach involving power sale and transmission.

Settlement Counsel, Colstrip Power Plant Mining and Operational Litigation, Montana, 1997-98. The Montana Power Company asked Joe to provide advice concerning disputes among the co-owners of the Colstrip, Montana, coal fired power plant, and then to establish an alternative dispute resolution process. Joe assisted in process design, the selection of neutrals and process facilitation in disputes concerning the mining of coal, transportation of coal, and power generation. These processes resulted in the settlement of complex and lengthy lawsuits.

Settlement Counsel, Power Sales Dispute, Montana, 1996-98. The Montana Power Company v. Puget Sound Energy. Joe assisted in setting up a process that avoided litigation in a dispute over the sales under a Power Sales Agreement.

Energy related presentations or associations:

- *Guiding Institutions Through Conflict; Moving from Litigation to Mutual Gains Bargaining*, (Energy Dispute Model) American Bar Association, Dispute Resolution Section Conference, San Francisco, April, 2000.
- American Arbitration Association, Energy Panel.

DESIGN & CONSTRUCTION

Panel member, land development dispute, 2009.

Panel member, contract termination, construction delay and change condition disputes, 2009.

Mediator, 2009, construction activities on waster water treatment plan. Facilitated parties in resolving disputes over construction delay and change order disputes.

Panel member, mining support and processing construction, 2009. Panel member on multi-million dollar dispute over delays, design and construction of mining support and processing facilities.

Panel member, land development and construction dispute, 2009.

Panel member, government construction dispute, 2009.

Arbitrator, multifamily housing construction dispute, 2009.

Arbitrator, home renovation dispute, 2009.

Arbitrator, residential home construction and sale dispute, Colo., 2008.

Arbitrator, commercial site design dispute, Idaho, 2008.

Arbitrator, commercial construction dispute, payment and liens, Colorado 2008.

Mediator, dispute over deposits for home purchase, Colorado 2007.

Arbitrator, commercial dispute over delays, subcontract breach, Colorado, 2008.

Mediator, commercial construction and sale dispute, 2007 (parties confidential). Joe was selected to mediate disputes among new owner, contractor and seller of a residence.

Arbitration, commercial construction dispute, 2006 (parties confidential). Joe was selected to arbitrate disputes among owner, contractor and subcontractors in the construction of a commercial building.

Arbitration, home construction dispute, 2006 (parties confidential). Joe was selected to arbitrate disputes between the contract and owner in a home construction dispute.

Arbitration Panel Chair, fiber optic cable dispute, 2004 (parties confidential). Joe was asked to serve as chair of a three arbitrator panel to resolve various disputes concerning the planning, permitting and construction of segment of transcontinental fiber optic cable including various disputes over interpretation of the parties' agreements, and claims for delay and extra work.

Mediator, California business center, 2003 (parties confidential). Joe was asked to mediate disputes between the owner and general contractor of a Bay Area business center. He proposed and facilitated exchanges of information about the key construction disputes that permitted the parties to assess whether settlement offered advantages over litigation.

Arbitration Panel Chair, multi-family housing dispute, 2003 (parties confidential). Joe was asked to serve as chair of a three arbitrator panel to resolve various disputes concerning the planning and construction of multi-family housing developments.

Mediator, Residential construction dispute, 2003 (parties confidential). Joe served a mediator to assist the parties in resolving disputes over residential home construction.

Arbitrator, Residential construction dispute, 2003 (parties confidential). Joe was asked to serve as arbitrator to resolve disputes over residential home construction.

Settlement Counsel, commercial construction (various suits, parties confidential). Various parties to commercial construction or related environmental matters have asked Joe to assist them in determining whether Alternative Dispute Resolution would facilitate settlement on commercial buildings, pipelines, and environmental cleanup disputes.

Arbitrator, hotel design and construction, 2002 (parties confidential). Joe was asked to arbitrate a dispute among multiple parties over the construction of a downtown Denver, Colorado hotel.

Arbitrator, commercial office building design and construction, 2002. As arbitrator, Joe resolved a design, survey and construction dispute concerning a downtown Boulder, Colorado office and commercial center.

Mediator and arbitrator, construction disputes, 1997-present. Joe has served as a mediator or arbitrator of various construction related disputes involving defects, design, cost overrun and delay.

Construction related presentations or associations:

- American Arbitration Association, Construction Panel, N.Y.
- CPR Institute for Dispute Resolution, Construction Panel, N.Y.
- Registered Professional Engineer, State of Colorado, 1975.
- *Engineers' Guide to Arbitration, Mediation and Conflict Resolution*, co-presenter, American Council of Engineering Companies of Colorado, April 2009.
- Author, *Making The Job Easier for Your Arbitrator*, Colo. Journal, 2000.
- ADR training presentation, legal department, CH2M Hill, 2001

TECHNOLOGY AND COMMUNICATIONS

Mediator, telecommunications, 2007 (parties confidential). Joe was selected to mediate a dispute concerning cell phone technology.

Mediator, telecommunications, 2003 (parties confidential). Joe designed a mediation process to assist the parties to a telecommunications dispute regarding conflicting interpretations of an Interconnection Agreement under the various laws, FCC rulings and Court precedent.

Arbitration Panel Chair, Communications Transmission Dispute, 2004 (parties confidential). Joe served as panel chair to resolve a dispute concerning fiber optic cable installation.

Mediator, telecommunications, 2000 (parties confidential). Joe designed a mediation process to assist the parties to a telecommunications dispute exchange of information and ideas to search for resolutions to disputes over telecommunication services, switching delays and service interruptions.

Mediator, E-commerce, 2002 (parties confidential). Joe creates a process to help parties resolve their dispute over whether the Internet based e-commerce solutions provided met the client's needs and the companies' contractual responsibilities. Joe provided the parties with a process to assess both the legal and technical aspects of this conflict.

Mediator, software asset purchase, 2001 (parties confidential). Joe designed a process and conducted joint sessions in a dispute between the purchaser and seller of software assets. He assisted the parties in better understanding their respective rights under the applicable agreements, and understanding how and why disputes occurred over the functionality of purchased software.

Settlement Counsel, technology leasing dispute, 2002 (parties confidential). Joe negotiated an information exchange among disputing parties to reduce unnecessary conflict and permitted a final settlement on complex accounting and legal disputes concerning leased hardware.

Technology and communication related presentations or associations:

- Presenter, *Using ADR in Intellectual Property Controversies*, ABA Litigation Section Roundtable, Merchant & Gould, Denver, CO., Jan., 2003.
- Co-author with EM Thiessen, *Beyond Win-Win in Cyberspace*, discussion of resolution of environmental disputes using "negotiation support systems" and facilitation, *The Ohio State Journal of Dispute Resolution* (15 Ohio S. J. of Disp. Res. 643 [1999]).

LAND USE, SUSTAINABLE COMMUNITIES & TRANSPORTATION

Facilitator, Denver Regional Council of Governments – Growth Management Policy Revision, 2008-09. Facilitated a steering committee and planners group in revision of the regional growth management policy.

Mediator, Land use and development dispute, 2006 (parties confidential). Joe served as mediator assisting local government and citizens in a Colorado mountain community resolve a pending court dispute over land use, development and public roads/assess.

Facilitator, Adams-Weld County Transportation and Planning, 2005. The Denver Regional Council of Governments asked Joe to plan and facilitate a meeting of county and municipal representatives to consider how collaborative planning efforts on growth and transportation could assist all parties.

Conflict assessor/facilitator, City of Centennial & Regional Council of Governments, Road closure facilitation, 2003. The Denver Regional Council of Governments and the City of Centennial asked Joe to assist with the resolution of a dispute involving a road closure and the resulting transportation problems. He conducted a conflict assessment, recommended a facilitated process, and undertook to determine whether a consensus building

exercise could provide the parties with workable solutions to primary, secondary and emergency access to several Colorado communities.

Mediator, Jarbidge/Elko Nevada Public Lands Litigation, 2001. Joe mediated a consensus building process to determine, among other disputes, how public and local government access could be undertaken along historic roads in Nevada.

Land use related presentations or associations:

- *Urban Regional Governance: the challenges of voluntary and mandatory approaches*, co-presenter, 18th Rocky Mountain Land Use Institute Conference, March 2009.
- Colorado Office of Smart Growth, Intergovernmental Land Use Dispute Resolution Program, List of Qualified ADR Professionals.
- *Mediating Land Use Disputes*, lecturer, Colorado Municipal League 81st Annual Conference, Pueblo, CO., June 2003.
- Role play mediator, CBI-Lincoln Land Institute course entitled *Mediation Land Use Disputes*, Boulder – 2002, Denver - 2003
- Visiting Professor and role-play facilitator in the mock negotiation of the San Francisco Airport Runway Expansion Negotiations, *Advanced Negotiations Course*, Stanford Law School, Program on Mediation and Negotiation, April 2001.

EMPLOYMENT AND SHAREHOLDER DISPUTES

Mediation – wrongful termination and intentional infliction, 2007. Mediation of dispute over liability for and damages related to claims made for wrongful termination and infliction of emotional distress.

Mediation – non compete dispute (2007). Mediation of dispute between former employee and employer over terms and enforceability of a noncompete agreement.

Settlement counsel. Joe was asked by a corporation to assist in evaluation of claims by a former employee on claims of breach of employment agreements.

Arbitration – wrongful termination and §1983, 2003 (parties confidential). Joe served as arbitrator in a dispute concerning wrongful termination and discrimination claims.

Mediation - termination. Parties to a dispute asked Joe to mediation disputes over claims, among others for unpaid wages, constructive termination and attorney's fees.

Facilitation – medical group dispute. A hospital and group of practicing physicians asked Joe to facilitate discussions concerning workplace and contract disputes to help clarify the choices the parties had concerning improving or terminating their continuing employment and business relationships.

Mediation – dissolution of medical practice. A group of physicians asked Joe to mediation the terms of the breakup of their practice into two separate practicing groups.

Mediation – dissenting shareholder. Joe was asked to mediate a dispute over the value of dissenting shareholder rights pursuant to statute.

BUSINESS AND COMMERCIAL DISPUTES

Mediator, promissory note dispute, 2009.

Arbitrator, franchise dispute, 2009.

Mediator – franchise dispute, 2007 (parties confidential). Mediation regarding the terms and method of franchise termination.

Mediator – financing and earnest money dispute 2007 (parties confidential). Dispute over entitlement to earnest money and interpretation of purchase agreement.

Arbitration – acquisition agreement 2003 (parties confidential). Joe served as arbitrator in a dispute over the alleged breach of an acquisition agreement and terms providing for continuing control and participation.

Arbitration – franchise agreement 2004 (parties confidential). Joe served as arbitrator in a case founded in claims of breach of a franchise agreement and lost profits claims.

Arbitration – franchise agreement 2002 (parties confidential). Dispute over terms of and termination of franchise agreement including injunctive relief.

Mediation and Settlement counsel. Joe has provided assistance to parties and litigants in a wide variety of business disputes as a mediator, an arbitrator, a court-appointed neutral, settlement counselor or legal counsel for parties. His cases include banking, joint ventures, franchising, medical professional practices, consultants, real estate, financing, and asset purchase transactions.

TORTS

Mediator, 2007 – wrongful infliction of emotion distress.

Settlement counsel, 2003 (parties confidential). Joe provided settlement counsel to an entity seeking to assess settlement in a multi-party toxic tort claim involving areas adjacent to industrial properties.

Trial counsel. Service as trial counsel in various tort claims including closed head injury.

ADJUDICATIVE EXPERIENCE

On more than forty occasions, Joe has been appointed as an arbitrator or a court appointed evaluator/special master. As a trial lawyer, he assisted clients in a wide variety of water, natural resources and commercial cases in both state and Federal trial courts, and in appeals in the Supreme Courts of Colorado and Montana, in the U.S. Supreme Court, and in the U.S. 10th and 3rd Circuit Courts of Appeal. With regard to arbitration, Joe has developed tools and processes to simplify the presentation of evidence in arbitration. *E.g., Making The Job Easier For Your Arbitrator*, published in the *Colorado Journal*, 2000.

EXPERIENCE IN ASSISTING ORGANIZATIONS

Capacity-building, Effectiveness & Evaluation, Facilitation

Facilitator, Longterm Care, Engaged to assist in a strategy update for large health care organization.

Facilitator, International Statistical Institute. Engaged to assist in strategy update.

Facilitator, Denver Regional Council of Governments, 2008-2009. Engaged to help Board members adopt a new urban growth management policy.

Facilitator, Colorado Historical Society, 2007. Joe helped design and facilitate a day long workshop aimed at exploring “What is American Indian Identity” among citizens, tribal spokespersons and educators.

Facilitator, Centennial Snow – Ice Task Force, 2007. Joe designed and facilitated a day long meeting among government agencies to help draft a strategic plan for coordinating snow removal in major storm.

Facilitator, Dean’s Diversity in Law Initiative, 2006-2007. Joe was selected by the two Colorado law schools to facilitate the development of a strategy for a multi-year program and process to increase the diversity in the Colorado legal environment.

Facilitator, Water For People, Program Strategy, 2006/07. Joe has been engaged under Inter-Mediation, to assist the design of Water for People’s India strategy for water and sanitation. This program will the development of changes to program operating concepts to bring

work more in line with the newer thinking on the role of nongovernmental organizations from developed countries – moving away from short term projects to long term partnerships.

Facilitator, Water and Conflict Strategy, 2006 (parties confidential). Joe was engaged by a water users organization to assist them in developing an organizational strategy to address conflict over water and search for approaches that minimize litigation and maximize the opportunities for collaboration.

Facilitation – medical group dispute. A hospital and group of practicing physicians asked Joe to facilitate discussions concerning workplace and contract disputes to help clarify the choices the parties had concerning improving or terminating their continuing employment and business relationships.

Water For Africa, 2000-2002. Joe co-managed an EPA sponsored capacity building project with Eastern African NGOs working in urban settlements. As a NGO team member, he negotiated the principal grant, interviewed the potential sub-grantees, developed the selection criteria, made and drafted the grant documents, participated in the monitoring and evaluation and facilitated the “lessons learned” workshop.

Manila, USAEP, 2003. Joe co-facilitated a capacity building workshop that fostered consensus on water and waste water treatment.

Water For People, 1998-to date. Joe has been asked to develop programs and trainings on ‘Program Monitoring & Effectiveness,’ water strategies and other management issues including use of consultants and board training sessions.