



# CONCUR

NEGOTIATING EFFECTIVE ENVIRONMENTAL AGREEMENTS

## PUBLICATIONS

**BOOKS**

**WORKING PAPERS**

**REPRINTS**

**PUBLICATIONS AND REPORTS**

**TEACHING NOTES**

**RESOURCE GUIDE**

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# BOOKS

**PR-99-01**

**"Case 6: Resolving Science-Intensive Public Policy Disputes: Reflections on the New York Bight Initiative."** Scott T. McCreary, pp. 829-858, from *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement*. Edited by Lawrence Susskind, Sarah McKearnan, and Jennifer Thomas Larmer. Published by Sage Publications, 1999. Available through Amazon Books at [www.amazon.com](http://www.amazon.com), \$129.95. Or you may call Sage Publications directly at 805-499-9774 or visit their website at [www.sagepub.com](http://www.sagepub.com).

*Reports on a model study of the use of joint fact-finding techniques to help resolve complex environmental issues. The substantive focus of the Bight Initiative was the issue of managing PCBs in the ocean region adjacent to New York Harbor known as the New York Bight. This chapter authored by Scott McCreary is one of 17 case studies, which complements seventeen chapters on specific topics in Consensus Building.*

**PR-94-01**

\$18.95 / Paperback    \$57.50 / Hardcover

**Overcoming Obstacles in Environmental Policymaking. Creating Partnerships Through Mediations.** John K. Gamman. 1994. State University of New York Press. Call 1 (800) 666-2211 to order your copy.

*Examines why policies and laws intended to protect the environment often do not work. In particular, Gamman addresses the fundamental reasons why efforts to protect natural resources in the developing world generally fail. Recommends a new open model of decision making to strengthen environmental decision making.*

# WORKING PAPERS

**WP-00-01**

\$9.00

**Refining and Testing Joint Fact-Finding for Environmental Dispute Resolution: Ten Years of Success.** Scott T. McCreary, John K. Gamman, et.al. May 4, 2000.

*Describes the advantages of joint fact-finding techniques over the more traditional "blue ribbon panel" and "adversary science" models. Describes how to implement joint-fact finding techniques. Finally, the paper suggests means for linking the results of the joint fact-finding process to a final agreement. Summarizes CONCUR's use of the technique in several cases.*

**WP-00-02**

\$9.00

**Applying Mediation Tools to Integrated Coastal Zone Management: Negotiation Experience from San Francisco Estuary and Tributaries.** Scott T. McCreary, et. al. May 4, 2000.

*Presents a typology to classify the way coastal management literature addresses conflict resolution. Describes the need for detailed case studies on the use of alternative dispute resolution to solve complex coastal issues with multiple parties. Presents two case studies of CONCUR's work as a neutral mediator to resolve issues using a formal stepwise model emphasizing stakeholder analysis, joint fact-finding and single text negotiation.*

**WP-99-01**

\$7.00

**An Initial Look at Prospects for Using Mediation to Resolve Coastal Resource Management Disputes in Israel.** Scott McCreary. Presented at the Workshop on Environment, Dispute, and Conflict Resolution, January 20-22, 1999.

*Examines the sources of complexity in coastal resource management disputes nationally and internationally. Presents a brief case study of mediation-based planning for the Tijuana Estuary Research Reserve at the U.S.-Mexico Border. Poses questions to initiate a national dialogue on resolution of coastal land use conflicts in Israel.*

**WP-99-02**

\$7.00

**Participation and Representation in Environmental Decision Making in the Pacific Rim: Reflections on Negotiation-Based Models of Practice.** Scott McCreary with the assistance of Bennett Brooks, Austin McInerney and Kym Garrett. Presented at the Conference on Democratic Design and Planning for the Pacific Rim, June 24, 1999.

*Presents four propositions to frame a cross-cultural discussion about the potential scope of participation in planning and design disputes. Examines the role of planners and designers and the relative merits of convening structured negotiation processes.*

**WP-99-03**

\$7.00

**Mediated Joint Fact-Finding as a Strategy for Resolving Environmental Policy Disputes: Facilitated Independent Scientific Review of the CALFED Water Conservation Goals.** Scott McCreary, Bennett Brooks and Roberta Borgonovo. Presented at the SCMA 1999 Annual Conference, Malibu, California, October 30, 1999.

*Contested technical information often underlies environmental policy disputes. This presentation highlights mediated joint fact-finding as a strategy for building understanding and resolving technically complex issues.*

**WP-96-01** \$7.00

## **Major Patterns and Major Players in Regional Land Use Change**

*Addresses the following questions: What are the key findings from Effects of Land Use Change and Intensification on the San Francisco Estuary? Since CCMP adoption, have there been major changes in our system of land use decision making? Which players can make a difference in land use planning as it affects the Estuary? Lists nine specific recommendations for a land use action agendas for policy makers, land use planners, and scientists.*

**WP-93-01** \$7.00

## **Challenges in Contracting for Environmental Dispute Resolution. Scott McCreary, Prepared for the NCCM Panel, January 15, 1993.**

*Describes necessary preconditions for successful contracting. The paper reviews advantages and disadvantages posed by different types of project opportunities.*

**WP-93-02** \$7.00

## **A First Look Back at the San Francisco Estuary Project. Scott T. McCreary and Cornelia Tietke, Submitted to Coastal Zone '93, March 2, 1993.**

*Details the components of the SFEP's Comprehensive Conservation and management plan, including its consensus-building aspects. The paper suggests some criteria for weighing the project's effectiveness.*

**WP-93-03** \$7.00

## **Can Mediation Help Resolve Napa County's Top Ten Public Policy Disputes? Scott McCreary and Chuck Meibeyer. Based on a presentation at the Napa Mediation Week Reception, April 22, 1993.**

*Focuses on the possibilities of using mediation and mutual gains bargaining to resolve ten of Napa County's public policy disputes, which are fairly typical of local land use issues.*

**WP-93-04** \$7.00

## **Advice to City Attorneys: Choosing a Mediator to Help Resolve Disputes Involving Local Land Use, Environmental, and Public Policy Decisions. Scott T. McCreary, John K. Gamman and Martha Neuman. Presented to the League of California Cities 95th Annual Conference October 18, 1993.**

*Gives city attorneys practical advice in deciding when to initiate mediation, what kinds of qualifications to seek in recruiting a mediator, and the kinds of steps to build into a mediation process. The paper includes questions to use in choosing a mediator and outlines several specific roles for city attorneys.*

**WP-93-05** \$7.00

## **A Prototype System for Classifying Watersheds in the San Francisco Estuary Region. Scott McCreary, Josh Langenthal, Martha Neuman, Merrill Buice and Bonita Warren. September 27, 1993.**

*Presents the results of a watershed classification exercise undertaken for the San Francisco Estuary Project. Using specific data about the San Francisco Estuary. Illustrates the classification and ranking methodology and the results it yields. Outlines the rationale for classification and describes the methodology, findings, conclusions, and recommendations.*

**WP-93-06** \$7.00

## **Options for Strengthening Existing Institutional Arrangements for Watershed Protection of the San Francisco Estuary. Scott McCreary, Laura Harnish, Emily Tibbott, and Bonita Warren. September 27, 1993.**

*Prepared for our demonstration project with USEPA, this paper illustrates ways to strengthen the existing institutional and legislative framework to improve watershed protection. Describes existing arrangements and proposes three new strategies: Storm Water Management Plans now required by the Regional Water Quality Control Board, specific amendments to the General Plan guidelines, and recommendations to optimize the use of the California Environmental Quality Act (CEQA).*

**WP-93-07** \$7.00

## **Regional Solutions to Environmental Problems: Strategies for Overcoming Institutionalized Nimbyism. Scott McCreary, John Gamman, and Martha Neuman. Presented to the San Francisco Planning and Urban Research Association (SPUR), October 6, 1993.**

*Presented to the San Francisco Planning and Urban Research Association (SPUR) this paper reviews some challenges in California Environmental Policy Making, characterizes the fragmented nature of Bay Area Environmental Management, and also characterizes some subregional initiatives that show promise in breaking institutional deadlocks.*

**WP-92-01** \$7.00

**Mediating a Statewide Environmental Dispute in Louisiana. Scott T. McCreary and John K. Gamman, Submitted to Consensus Newsletter, Harvard Program on Negotiation, March 15, 1992.**

*Discusses the process by which the landmark Louisiana Environmental Action Plan was created and ratified. This comparative risk project used mediation techniques to name and rank Louisiana's 35 most pressing environmental issues. All parties to the negotiation signed the final agreement.*

**WP-92-02** \$7.00

**Using Case Studies of Actual Negotiations to Evaluate Dispute Resolution and to Design More Effective Dispute Resolution Systems, Scott T. McCreary. September 22, 1992.**

*A 3-page paper fully described by its title. Includes a table of criteria for evaluating the success of public policy mediation.*

**WP-92-03** \$7.00

**Ratification of Informal Agreements and Their Linkage to Formal Binding Agreements. Scott McCreary, John Gamman, and Cornelia Tietke, December 9, 1992.**

*Discusses the need for a ratification step to bring the mediation process to a logical conclusion. Using two examples it shows how informal agreements can be translated into binding agreements. Finally, it provides advice for mediators and facilitators.*

## REPRINTS

**R-99-01** \$4.00

**Bioregional Conflict Resolution: Rebuilding Community in Watershed Planning and Organizing. John Gamman, Michael Vincent McGinnis, and John Woolley. Environmental Management, pp. 1-12. July 1999.**

*Characterizes the valued-based conflicts that watershed managers are likely to face in planning. The authors propose that utilizing collaborative decision-making strategies is important, but successful long-term watershed planning requires rebuilding a community-based infrastructure that can support important social and bioregional networks and partnerships.*

**R-99-02** \$4.00

**How Can Joint Fact-Finding Help Coastal Management: Facilitated Independent Scientific Review of the CALFED Agricultural Water Conservation Goals. Scott T. McCreary and Tom Gohring. From Coastal Zone 99: Abstracts of Presentations, July 27-29, 1999, pp. 99-101. Edited by Urban Harbors Institute University of Massachusetts Boston, 1998.**

*Presented at Coastal Zone '99. Tracks the development and execution of a joint fact-finding process to craft an agreement on water conservation as part of the CALFED Water Use Efficiency Program. Written from the dual standpoints of an agency convenor and a nonpartisan facilitator.*

**R-99-03** \$4.00

**Lessons From The San Francisco Estuary: Four Rounds Of Action. Scott McCreary. From The Proceedings of the Conference on the Future of the Sanbanze Wetlands, Tokyo Bay, Chiba University, Chiba Japan, June 27, 1999.**

*Presented at the 1999 Chiba Conference on the Future of the Sanbanze Wetlands of Tokyo Bay. Tracks four rounds of planning for the San Francisco Estuary. Round 1 focuses on the creation of the Bay Conservation and Development Commission to regulate bay fill. Round 2 covers the San Francisco Estuary Project. Round 3 is the Wetlands Goals Project. Round 4 is the CALFED Bay-Delta Program. Concludes with a list of questions for consideration by Japanese citizens, scientists, and elected officials regarding planning for wetlands and estuaries in Japan.*

**R-99-04** \$4.00

**Facilitating Negotiated Agreements to Restore the Environmental Quality of the San Francisco Estuary. Scott T. McCreary, John Gamman, Lisa Whitman, and Austin McNerny. From Democratic Design in the Pacific Rim: Japan, Taiwan, and the United States, pp.134-161. Edited by Randolph T. Hester and Corrina Kweskin. Saline, Michigan, 1999.**

*Presented at the 1998 Pacific Rim Conference on Public Participation and Planning, convened at UC Berkeley. Presents three case studies of CONCUR's work crafting agreements involving complex issues and multiple parties. Case 1 involves policies for land use adjacent to the San Francisco Estuary. Case 2 involves a dialogue regarding copper reduction in the South Bay. Case 3 reviews the independent scientific review of the CALFED Bay-Delta Program. The paper concludes with advice for successful facilitation of environmental disputes.*

**R-99-05**

\$4.00

**Negotiating Agreements for Integrated Flood Control:****Guadalupe River Flood Control Project Collaborative****Santa Clara Valley, California. Scott McCreary and Austin McInerny. From *Proceedings of the 1999 APA National Planning Conference, April 28, 1999*. Edited by the American Planning Association, Chicago, IL, 1999.**Available at: <http://www.asu.edu/caed/publications/proceedings99/MCINER/MCINER.HTM>

Presented at the 1999 American Planning Association Annual Conference. A case study presentation focusing on CONCUR's facilitation and mediation of the Guadalupe River Flood Control Project. Details the step-by-step process of agreement-building among diverse interests and the process by which joint fact-finding was used to evaluate and select a preferred project.

**R-95-01**

\$4.00

**Identifying and Overcoming Obstacles to Resolving Cross-Cultural Disputes. John K. Gamman. From *Cultural Survival*, Vol. 19, No. 3, 1995.**

This article discusses the relationship of culture to environmental negotiations, and the importance of the "culture of decision-making." Included in the article are two case studies of environmental negotiations in the Caribbean. Finally, the author examines how to create negotiated partnerships for sustainable development.

**R-95-02**

\$4.00

**Independent Fact-Finding as a Catalyst for Cross-Cultural Dialogue: Assessing Impacts of Oil and Gas Development in Ecuador's Oriente Region. Scott T. McCreary. From *Cultural Survival*, Vol. 19, No. 3, 1995.**

Reviews the author's experience on a team that conducted an independent review of environmental impacts associated with oil and gas exploration in Ecuador's Oriente (Amazon) region. Examined in the article are the strategies used for framing the issue for investigation, information gathering methods used to redress power imbalances, and the presentation of and response to the Independent Review Team's report. Concludes with recommendations for using an independent review team model to initiate cross-cultural negotiation.

**R-94-01**

\$4.00

**Facilitated Negotiation: A New Solution for Dealing with Public Siting Controversies. John K. Gamman and John C. Jostes. From *MSW Management, Elements*, 1994.**

Describes problems with current and describes elements of developing a new siting approach using consensus-based agreements. Discusses critical elements in facility siting and preventing unstable relationships between the parties. A consensual decision-making process for siting controversial facilities is outlined, including establishing key advisory groups, designing a facility-siting dialogue, and transforming conflict into an opportunity to gain agreements.

**R-94-02**

\$4.00

**Battle of the Bulging Metropolis: Negotiating Our Way into Infill. Scott T. McCreary, John K. Gamman and Staci L. Lanza. From *On The Ground*, Vol. 1, No. 1, Fall 1994.**

Discusses the steps to successful land-use dispute resolution, and describes key factors to consider in choosing mediation.

**R-94-03**

\$4.00

**A Process for Incorporating Comparative Risk into Environmental Policymaking in Louisiana. Regina Thompson, Paul H. Templet, John K. Gamman, Scott T. McCreary, and Margaret A. Reams. From *Risk Analysis*, Vol. 14, No. 5, 1994.**

Examines the procedures and findings of Louisiana's effort to bring together scientific information and public perceptions in a comprehensive risk analysis of pressing environmental problems.

**R-92-01**

\$4.00

**Land Use Change and Impacts on the San Francisco Estuary: A Regional Assessment with National Policy Implications. Scott McCreary, Robert Twiss, Bonita Warren, Carolyn White, Susan Huse, Kenneth Gardels, and Dominic Roques. From *Coastal Management*, Vol. 20, 1992.**

Reports on the methods, findings, and policy implications of a major study undertaken for the San Francisco Estuary Project. Summarizes the legislative impetus for improved estuarine management. Also included is a discussion of the authors' analysis of the effects of land use change on the estuary, and how the findings relate to several management options to help frame the debate over estuarine management.

**R-85-01**

\$4.00

**Techniques for Resolving Coastal Resource Management Disputes Through Negotiation. Lawrence Susskind and Scott McCreary. From *APA Journal*, Summer 1985.**

Presents four case studies of nonadjudicatory approaches that have proven successful in resolving coastal resource management disputes in California, Massachusetts, and Oregon. Includes discussion of the elements and aspects of the different approaches. Describes four barriers to more widespread use of less adversarial forms of dispute resolution and suggests ways of overcoming those barriers.

## OTHER PUBLICATIONS AND REPORTS

**PR-95-01** \$4.00

**Borderless Clashes: How to Understand and Manage Environmental Degradation that Crosses National Borders. John K. Gamman, May 6, 1995.**

*Outlines a presentation for the World Affairs Council Annual Conference convened at Asilomar, California in 1995. The paper presents six challenges for addressing global environmental problems, and six ways to help resolve them.*

**PR-95-02** \$4.00

**Meeting the Challenges of Mediating Land Use and Environmental Disputes in California in the 1990's. Scott McCreary, April 28, 1995.**

*Addresses some of the special challenges and opportunities posed by the mediation of land use disputes in California. It sets forth some hopeful trends for land use mediation, and proposes a preliminary agenda for encouraging land use and environmental mediation in the state.*

**PR-90-01** \$15.00

**Growth Management: Impacts of Population Growth on Natural Resources (Water, Air, and Land) in the San Francisco Bay Area**

*This report, prepared for the Bay Vision 2020 Commission, includes a comprehensive look at future water supply and demand in the 9 Bay Area counties. In addition, the paper documents the current system of governance for air, water supply and water quality, and land use.*

**PR-88-01** \$9.50

**Managing PCBs in the Hudson/Raritan Estuary and the New York Bight System. Scott McCreary with Marc David Block and Marlene Mallner, October 28, 1988.**

*This paper consists of the 78-page negotiated single text of the New York Bight Initiative. It represents the results of a joint fact-finding process, and summarizes the sources and effects of contaminants on the marine environment of the New York Harbor region. Also included are 26 specific policy recommendations.*

## TEACHING NOTES

**TN-00-01** \$5.00

**The Role of Negotiation in Environmental Management, CONCUR, 2000.**

*Outlines a series of factors that have elevated the importance of negotiation in the suite of tools in environmental management.*

**TN-00-02** \$5.00

**Key Principles to Consider in Structuring a Negotiation-Based Process, CONCUR, 2000.**

*Describes in detail four principles that guide and structure an effective negotiation.*

**TN-00-03** \$5.00

**CONCUR's Model for Building Stepwise Agreements, CONCUR, 2000.**

*Outlines key steps in the practical execution of a negotiation-based process.*

**TN-00-04** \$5.00

**Tips for Preparing for a Multiparty Negotiation, CONCUR, 2000.**

*Advises negotiators on tactics and strategies for a face-to-face multi-party negotiation.*

**TN-00-05** \$5.00

**Checklist: Preparing for a Negotiation, CONCUR, 2000.**

*Offers recommendations for designing and executing a negotiation strategy.*

## RESOURCE GUIDE

**RG-00-01** \$15.00

**CONCUR Resource Guide**

*This guide is a compilation of resources for negotiation, mediation and other forms of alternative dispute resolution. Sections include information on professional organizations, volunteer mediation opportunities, Bar Association ADR Committees, graduate programs in dispute resolution, books, periodicals, journals and newsletters.*

