

A Summary of the Institute for Environmental Negotiation

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Introduction to the Institute Today

The Institute for Environmental Negotiation (IEN) is an environmental dispute resolution organization at the University of Virginia. The Institute's expertise has been sought for local environmental disputes and national policy issues. IEN has gained international recognition as a leading environmental and public policy dispute resolution organization, and has participated in more than 300 projects. IEN conducts about 60% of its work in Virginia, 20% in nearby states, and the rest is national in scope or performed in localities outside of the region. IEN attracts scholars from all over the world visiting or spending sabbaticals here, and IEN faculty serve on numerous local, state and national boards and programs.

Each year the IEN undertakes on average two dozen or so projects requiring multi-party facilitation and mediation. Watershed restoration, land use, community revitalization, heritage preservation, transportation, natural resource use, public health, and more, are IEN's domain. These projects range from a one-day event involving a single organization to a multi-year initiative engaging dozens of stakeholders in multiple ways, with literally hundreds of millions of dollars at stake.

IEN exemplifies and furthers the University's mission as a public university. IEN combines *direct public service* – building consensus or resolving conflict – deliberate *learning* – through evaluation, research and reflexive practice – and *teaching* – university students as well as working planners, public officials, and citizens. IEN's mission describes this work: we build solutions, we build knowledge, and we build capacity. What we have done – what we are doing still - is changing the way that environmental public policy decisions are made.

IEN Adds Value

Elements from U.VA Strategic Priorities supported by IEN:

- Build on the University's founding principle as an agent for the common good;
- Promote public-directed leadership;
- Connect the classroom with the real world by encouraging students to put theories into practice and build theories based on practice and observation;
- Connect academic life to public service through academic service learning and community-

based research;

- Ensure that graduate programs serve student expectations, including ... future employment;
- Invite professors and students from other nations to the Grounds as a means of internationalizing the University's intellectual life.

How does IEN provide this value?

Student mentoring and training – nine-month and summer internships allow graduate students to work on a variety of topical, real world urban and environmental planning issues, often taking on substantial responsibilities of facilitation, planning, and project management.

Other learning opportunities – IEN faculty have been teaching since IEN's inception in 1980, but recent years have seen an increase in teaching new courses that reflect cutting-edge topics and concerns in the field of planning.

Student recruitment – approximately 25% of incoming graduate students describe the presence of IEN as the most compelling reason for selecting the University of Virginia.

Departmental visibility – IEN's practice, teaching and writing contribute to the Department's excellent national reputation within the planning profession.

University visibility - IEN conducts more public service projects than any other academically-based Center or Institute, and brings significant credit to the University as a whole. Much of IEN's service occurs in high profile situations involving senior elected and appointed officials (e.g., Governor's Natural Resources Leadership Summit, Tobacco Communities Project, Shenandoah Valley Waste Solutions Forum, Chesapeake Bay Roundtable, and many others). IEN-led projects enhance the University's public service leadership in environmental decision-making, providing University faculty opportunities for research and practical applications.

The Birth of an Organization

In 1977 Allied Chemical Corporation was fined \$13.2 million for polluting the James River with the insecticide Kepone. This was the largest water pollution fine ever imposed at the time. By court order a portion of the fine (\$8 million) was used to fund the creation of the Virginia Environmental Endowment (VEE).

Gerald McCarthy, executive director of the new endowment, was interested in testing the idea of "environmental mediation" in Virginia. Environmental negotiation was a new concept at the time. The endowment asked local universities to submit proposals for establishing a university-based environmental negotiation organization.

"The endowment has always believed in taking a middle of the road approach—you can get a lot more done by working together than by suing each other."

—Gerald McCarthy

Rich Collins, who would soon become the Director of the Institute for Environmental Negotiation, was Chairman of the Urban and Environmental Planning Department at the University of Virginia. McCarthy invited Collins to submit a proposal.

The goal of the new organization, according to McCarthy, would be to resolve complex environmental multi-party disputes. McCarthy, Collins and others could see that the many lawsuits going on at the time were not effectively helping protect the environment. According to both McCarthy and Collins, the litigation process is uncertain, sometimes hostile, and expensive for everyone involved. The hope was that through mediation, the various stakeholders would be able to communicate their key interests, which are sometimes obscured in litigation, and that a mutually-beneficial resolution could be reached outside of court.

According to McCarthy, the Virginia Environmental Endowment ultimately chose U.Va. because of Rich Collins' and Bruce Dotson's commitment to these ideas, and because the university was willing to support the institute administratively. The Institute for Environmental Negotiation was founded January 1981, with financial support from the Virginia Environmental Endowment.

The Early Years at IEN

Collins completed his term as Chairman of the Department of Urban and Environmental Planning at the School of Architecture and focused his attention on his new role as head of IEN. Collins hired Bruce Dotson as Assistant Director. Dotson had begun teaching at U.Va. in the fall of 1978 after working in local government in California. According to Dotson, his experience working with local leaders in California and bringing neighbors and developers together on an issue—essentially mediating site specific land use conflicts—fit well with the mission of this new organization.

The first year was spent looking for projects and getting the word out about the services provided by IEN. Since both the organization itself and the term “environmental negotiation” were new, people, though interested, were not really picking up on the idea. The staff did what they called “ambulance chasing,” looking for projects in newspapers and following current events. Collins contacted public agencies, including local government officials and federal agencies, and encouraged them to consider mediation.

One of IEN's first projects was facilitating the Virginia Toxics Roundtable. The Roundtable was formed in 1981 with members from organizations including the Chesapeake Bay Foundation, Conservation Council of Virginia, The Environmental Defense Fund, Piedmont Environmental Council, The Sierra Club, E.I. duPont de Nemours, Inc., ICI Americas, Inc., and WACO, Inc. The purpose of the group, according to the Fall 1981 edition of IEN's newsletter *The Mediator*, was to “develop consensus regarding the management of hazardous substances in Virginia and make recommendations to state policy makers.”

Major Projects

The Uranium Mining Task Force finally brought the IEN into the public eye. The Uranium Task Force was created by the Coal and Energy Commission of the state legislature in January 1984 to address the risks and economic consequences of allowing uranium mining in the state; IEN was chosen to coordinate the task force. The banning of uranium mining by the Virginia legislature in 1982 had led to a series of studies, disputes and continuous arguments, and the issue was at a standstill. The task force held monthly meetings. In 1985 the task force reached an agreement on many components of the uranium issue and published a 64-page report containing recommendations. As a result of this task force IEN gained recognition for being fair and leaving no stones unturned.

“This was a very important project both for IEN and for the state. It demonstrated the value of environmental negotiation in a situation where both the stakes and the passions were running high.”

—Bruce Dotson, referring to the Uranium Mining Task Force

The Institute’s next major endeavor was the Chesapeake Bay Roundtable. The roundtable began in 1986 and was facilitated by IEN at the request of The Chesapeake Bay Commission. Members of the roundtable included legislators, farmers, industrialists, developers, local government officials and citizen activists. The roundtable deliberated for 18 months, reached a consensus, and released a consensus statement that served as the basis for the Chesapeake Bay Preservation Act of 1988.

Following these projects IEN was launched into a busy period during which it was hard to keep up with demand. The Institute grew in size and number. IEN hired Barbara Jones as secretary in 1985. Numerous individuals served as Senior Associates and Associates, and students from the Department of Urban and Environmental Planning contributed their time as Graduate Assistants and Interns.

“A number of individuals who worked at IEN contributed significantly to the various projects. Elizabeth Waters, for example, took the lead or partnering roles in a significant number of projects. She joined Bruce and me in the National Trust publication America’s Downtowns, which dealt with historic preservation in several American cities.”

—Rich Collins

Growth & Change

The Institute was originally located in the basement of Madison Hall. Joseph Bosserman, Dean of the School of Architecture, supported Collins entirely in creating the organization, but told Collins that there was not space in the Architecture school for additional facilities. Collins spoke with administrators and pushed for a location that was close to the School of Architecture and Central Grounds. According to Collins he was reluctantly allowed into Madison Hall. At the time, Madison Hall was undergoing renovation—the heat was turned off at times and there were water issues. When other groups were moving out of the building IEN was still operating out of the basement, heating the space using various devices.

Eventually IEN relocated to Peyton House, which was at the time scheduled for demolition but was later spruced up to meet space needs at the university. In 2005 the Institute relocated to 104 Emmet Street, where it is today.

The mission and activities and of IEN have evolved over time. In 1999 the Virginia Natural Resources Leadership Institute (VNRLI) was co-founded by Frank Dukes, who had become Director, and Tanya Denckla Cobb, who became Associate Director, in partnership with the Virginia Department of Forestry and Virginia Tech. According to the Fall 2000 issue of *The Mediator*, the new program was “designed to help Virginia’s leaders in the public, private and nonprofit sectors resolves conflicts over environmental issues.” The first class of VNRLI Institute Fellows began meeting in September of 2000. The yearlong program included six seminars and training workshops on various topics, including tobacco and rural community sustainability, water quality, growth management, and sustainable forestry. The first class, composed of 27 Fellows, graduated in the fall of 2001.

IEN also partnered with Virginia’s community mediation centers to launch Virginia Solutions in the Fall of 2004, a program that was established to provide communities with an easy way of initiating a collaborative process for implementing controversial or complex local projects. In 2007 IEN designed and facilitated the first state-wide summit on food security.

Other major projects and accomplishments over the years include Virginia’s Water Study Commission (1988-1991), Tobacco Farmer Public Health Dialogues (1994-2001), the Ground Water Protection Steering Committee (1987-2003), two Governor’s Summits on the Environment (2003 and 2007), and the Community-Based Collaboratives Research Consortium (1999-2006).

In 1996 Dotson became Department Chair of Urban and Environmental Planning, at which time he reduced his workload at IEN. In 2000 Collins retired as Director of the institute and Frank Dukes, who had worked since 1991 first as a Senior Associate and then in 1996 as Associate Director, was appointed as the new Director.

In 2004 the Institute for Environmental Negotiation established the Gerald P. McCarthy Award for Leadership in Environmental Conflict Resolution. The first award

was presented to Gerald McCarthy himself at IEN's 25th anniversary symposium on November 19th, 2004. The award is given annually to recognize an outstanding leader in the effort to protect Virginia's environment.

IEN's core mission today is to build a sustainable future for Virginia's communities and beyond. They seek to accomplish this in three ways: 1) by bringing communities together to develop sustainable solutions; 2) by providing learning opportunities to encourage the development of creative and collaborative leaders ; and 3) by building understanding of the best collaborative practices through research and writing.

Institute for Environmental Negotiation Work: Five Examples

(1) Community Revitalization

Community revitalization involving contaminated places has been an area of focused research, practice and writing throughout this decade. A recent successful example is the revitalization of *Money Point*.

For decades, the Elizabeth River at Money Point was a 35-acre biological dead zone. Little survived along the river bottom, laced with some of the highest concentrations of cancer-causing polycyclic aromatic hydrocarbons (PAHs) in the world. Now, however, Money Point, almost a mile of prominent waterfront at the gateway to Chesapeake, Virginia, will again be celebrated as a hub for maritime activities, this time co-existing with one of the largest environmental restoration efforts on the Chesapeake Bay, thanks to the five revitalization goals developed through a multi-party consensus building process. These range from historic cleanup of the contaminated sediments through a new trust fund, to NOAA's help with the largest voluntary wetland restoration on the Elizabeth River, to virtually every waterfront industry doing its part through voluntary stewardship.

The result is an uncommon accomplishment which, when it happens, creates a special euphoria: industries, government and citizens, all agreeing to a common course of environmental action. Nearly 100 participants came from groups as diverse as a Baptist church, the US EPA and one of the world's largest oil companies. They set the vision - to be the model to the nation for thriving waterfront industry that co-exists with ecological regeneration and yet affirms a residential community's history and safety.

To be implemented over the next ten years, the work's keystone is a \$5.5 million cleanup of contaminated sediment at the bottom of the Elizabeth River. Other features of the plan include the creation of a 100-foot-wide buffer of vegetation designed to filter chemicals out of storm water running off Money Point into the river and the construction of a playground, sidewalks, and other civic improvements in the small

Money Point residential community.

Perhaps the most original element of the plan is the creation of a Learning Barge, a floating classroom, where school-aged children as well as adults will learn about the revitalization process taking place on and along the Elizabeth River. The jury complimented “the design of a 'learning barge' that will allow schoolchildren to experience the life of the river.” The team of students and faculty who are researching / designing / building / preparing curriculum for the barge form the Learning Barge Project, directed by Asst. Professor of Architecture Phoebe Crisman.

The Plan for Money Point, facilitated by UVA's Institute for Environmental Negotiation (IEN) Director Frank Dukes and IEN Associate Christine Gyovai, won a prestigious 2007 Environmental Design Research Association (EDRA) Places, Planning Award. Asst. Professor of Architecture Phoebe Crisman and Michael Petrus's design firm Crisman+Petrus Architects provided the urban design for the project as well as designed the final report. Others who contributed included graduate students of urban and environmental planning in Dukes' “Collaborative Planning” class during the 2004-05 academic year who developed a community history and did other work. According to EDRA: “EDRA/Places Awards recognize projects whose significance extends beyond any one profession or field. The awards emphasize a link between research and practice. They demonstrate how a careful understanding of people and their interactions with places can inspire design.”

Images at: <http://www.virginia.edu/ien/moneypoint/index.html>

(2) The Virginia Natural Resources Leadership Institute

A flagship project of the IEN, the *Virginia Natural Resources Leadership Institute* is now in its eighth successful year. VNRLI is helping Virginia transition to a new way of doing business – helping our environmental leaders learn to work collaboratively while still meeting their own needs, interests and goals. VNRLI brings together natural resource leaders and managers from industry, businesses, local and state government, and the environmental community to develop leadership skills needed to build consensus around environmental issues, build a cross-sector leadership network throughout the state, and improve the capacity of Virginia's communities to engage in productive dialogue and resolution of issues important to community sustainability. The program consists of six intensive three-day sessions over a nine-month period beginning in September and ending in June. Issues covered include the Chesapeake Bay, sustainable industrial practices, water quality, agriculture, mining, and forestry utilizing an expert panel and field trip format. Coupled with the issue discussion is training in leadership core principles, facilitation and mediation skills, and consensus building skills.

The VNRLI has a proven track record with over 240 Fellows graduated since the pilot class of 1999 and the first full class of June 2000, many of whom have immediately applied these skills to address environmental issues in a collaborative manner. Our

graduates are working professionals in state government and federal government, local government, industry, small and independent businesses, educational institutions, and environmental and civic organizations.

Key specific benefits of the VNRLI are that it offers our leaders:

- Specific personal and professional leadership skills enabling collaborative leadership.
- Ability to engage greater community participation in policy decision-making through increased understanding and use of consensus building processes.
- Skills and tools to convene and engage groups in idea creation and innovative problem-solving.
- Relationship building between industry, regulators, local government, and environmental and community advocates. VNRLI provides an invaluable opportunity to meet “off-duty” with other leaders from different perspectives, so that an understanding of different perspectives is enhanced.
- Education about a range of key environmental issues in Virginia today. Cross-fertilization occurs across issues and expertise, enriching the Fellows’ ability to bring creative thinking to their own work.

VNRLI is the result of a unique partnership between Virginia Tech’s Cooperative Extension, the University of Virginia’s Institute for Environmental Negotiation, and the Virginia Department of Forestry. The three partners have supported VNRLI in a variety of ways, including USDA Urban and Community Forestry grants, in-kind donation of materials, van vehicle use and teaching faculty.

(3) Food Systems and Food Security

Tanya Denckla Cobb has worked in partnership with Timothy Beatley, Teresa Heinz Professor of Sustainable Communities, to combine practical applications (e.g., convening the *Virginia Food Summit*, developing a *Regional Food Security Network*) with a series of classes for planners on this topic. The first class is a Planning Applications Course (PLAC) that starts from the assumption that food—its availability, quality, and the impacts associated with its production—ought to be a primary local planning concern. Having a safe and secure food production and distribution system is an essential kind of local infrastructure, as important as water and sewer systems, roads and schools and other more conventional forms of community infrastructure. There is, moreover, a positive trend in the direction of planning for food, and this course builds on this growing interest and literature and body of planning practice. Denckla Cobb and Beatley’s courses are offered through the University of Virginia, School of Architecture, Department of Urban and Environmental Planning.

Part I (PLAC 569), engages students in conducting an assessment of the local Charlottesville regional food system. The first preliminary assessment was completed in Spring 2006.

Part II (PLAC 570) engages students in undertaking specific projects that will deepen understanding of the impact of local regulatory policies on food systems, and also lead to specific recommendations for policies that can remove barriers or facilitate a more secure and sustainable food system. Denckla Cobb and Beatley are designing additional components of food system study for future classes at the University of Virginia.

2007 student projects can be downloaded at:

<http://www.virginia.edu/ien/docs/07FoodClassFINAL%20PAPERS/>

Part III (PLAC 571), is a global health course that looks at healthy communities through the lens of healthy food systems. Students learn from case studies of food systems in cities and villages throughout the world, and also examine the global-local connections of our regional food supply. Student projects identify specific ways to strengthen the local food system, as well as ways that the local food system might strengthen its global ties through fair trade, microfinancing, or other means.

(4) Water and Watershed Protection

IEN does considerable work involving ground and surface water. Recent examples include development of the Abrams/Opequon TMDL Implementation Plan, assisting Page County in developing comprehensive watershed planning, a convening project for Loudoun County watershed protection, and in 2009-2010 a watershed planning process for Bath County and facilitation of Virginia's Stakeholder Advisory Group for the Chesapeake Bay TMDL Watershed Implementation Plan.

In addition, IEN worked intensively in Fairfax County for five years on a series of plans. Working with different engineering firms, IEN facilitated the development of three watershed management plans for Fairfax County. These watershed plans provide an assessment of management and resource needs by defining problems within the watershed and prioritizing appropriate and workable solutions. The Institute developed the public involvement plan for the county and conducted a multi-stakeholder public involvement process for the three of the county's watersheds: Little Hunting Creek; Middle Potomac; and Cub and Bull Run. The process involves a standing steering committee for each watershed, focus groups, watershed academies and design workshops as well as educational materials and a web site.

(5) Community-Based Collaboratives Research Consortium

In 1999, IEN convened a group of researchers, mediators and facilitators, community groups, environmental organizations and agencies in Tucson, Arizona to examine and

discuss the controversies that had arisen over the increasing role of community-based collaborative groups in the management of local natural resources. The controversy was fueled by concern about the influence of local groups over resources that encompassed public goods such as public lands, endangered species, significant environmental resources and watersheds.

Participants at the Tucson meeting identified a need to learn more about these processes and to do so in a way that incorporated sound research methods and diverse ways of learning and sharing knowledge. Workshop participants formed the Community Based Collaboratives Research Consortium (CBCRC), led by IEN, to foster this work. The Consortium brought together fields from conflict resolution and the social and natural sciences to address both the human and natural dynamics of collaboration concerning community environmental resources.

A key outcome of the Tucson meeting was the development of the consortium's research agenda 'Assessing Research Needs' (<http://www.cbrc.org/documents.html>). The Consortium also developed a 'Protocol and Guidelines for Ethical and Effective Research of Community Based Collaborative Processes' to foster ethical research practice (<http://www.cbrc.org/documents.html>). The Consortium hosted five national workshops and funded thirteen research projects across the U.S. and Canada to address the consortium's research agenda. Conference papers, presentations and consortium research papers are available on the Consortium's website at <http://www.cbrc.org>.

The Consortium provided a venue for researchers, community groups, government agencies, funders and individuals to share their research, find out about new developments and studies concerning community based collaborative groups and to work in partnership with others. The Institute for Environmental Negotiation at the University of Virginia provided a clearinghouse function for the consortium, including design and management of the consortium's web site and coordination of a 17-person steering committee, research projects and workshops. And IEN Director Frank Dukes and former Senior Associate Karen Firehock serves as editor for a forthcoming book that will be the culmination of the Consortium's work, titled "Community-Based Collaboration: Making Sense of a Socio-Ecological Movement."

Additional Quotes and Excerpts

"The Institute was set up to provide third party assistance in environmental disputes over a broad range of issues including air and water quality, neighborhood zoning, and siting of public facilities."

Excerpt from "The Mediator: A Publication of the Institute for Environmental Negotiation" (Spring 1981)

“The Institute for Environmental Negotiation becomes alerted to disputes by responding to calls we receive and by monitoring newspapers and other publications. The Institute invites organizations, citizen groups and individuals who feel that a third party might be able to contribute to the resolution of a dispute, to contact us. Together with all interested parties we can decide if the Institute can make a useful contribution. We are looking forward to working with you and other centers and individuals around the country to advance the theory and practice of negotiated settlements. The Institute can be reached by calling (804) 924-1970.”

Excerpt from “The Mediator: A Publication of the Institute for Environmental Negotiation” (Spring 1981)

“QUESTION AND ANSWER

Q: What actually happens in a mediation effort?

A: In general, the first step is a private meeting between the mediator and each of the parties to the issue. The mediator asks questions about the history of the dispute and what each side sees as negotiable and non-negotiable and why. The next step is for the mediator to report his assessment of the situation and the conditions under which mediation might succeed...The first joint meeting is typically devoted to each side telling its view of the issue. This is often the first time that the opposing sides have expressed their views directly to each other. It is not uncommon to find that part of the disagreement had been based on missing or incomplete information...”

Excerpt from “The Mediator: A Publication of the Institute for Environmental Negotiation” (Winter/Spring 1983)

Sources for this Summary:

Mediator Issues: Spring 1981, Fall 1981, Winter/Spring 1983, Winter 1985, Spring 1988, Fall 2000

Interviews: Bruce Dotson, Rich Collins, Gerald McCarthy

Written Text and Information: Frank Dukes, Tanya Denckla Cobb

Online Sources: VEE website, U.Va. School of Architecture website, IEN website

Miscellaneous files (IEN folder, Projects Folder)