

# The Mediator

A PUBLICATION OF THE INSTITUTE FOR ENVIRONMENTAL NEGOTIATION ( IEN )  
 AFFILIATED WITH THE DEPARTMENT OF URBAN & ENVIRONMENTAL PLANNING, SCHOOL OF ARCHITECTURE, UNIVERSITY OF VIRGINIA

## IEN Facilitates Superfund Site Reuse; *Key Lessons Learned*

The inability or unwillingness of community stakeholders to agree is one of the common obstacles to responsible, profitable, and community-endorsed reuse of polluted sites. Redevelopment of Brownfield and Superfund sites, many of which have generated controversy and conflict, requires authentic community involvement and cooperation among diverse interests and institutions.

The *Central Chemical Superfund site* in Hagerstown, Maryland consists of a 19-acre parcel of land near a residential neighborhood. Fertilizer, herbicide, and pesticide production between the early 1930s and 1984 resulted in spillage and disposal activities that contaminated the site's ground water, soils and sediments, as well as sediments located downstream from the site. In 1997 the Central Chemical site was designated a Superfund site when placed on the National Priority List (NPL).

IEN's **Frank Dukes** and **Bruce Dotson** worked with consulting group E<sup>2</sup> Inc. to facilitate development of a community consensus plan for reusing the contaminated site. Together, their work with E<sup>2</sup> Inc. involved organizing public outreach, research, analysis, design services, and facilitating a community advisory committee and public meetings.

Funded by a pilot grant from EPA's Superfund Redevelopment Initiative (SRI), and formally sponsored by Hagerstown's Planning Department, the eight-month process was managed by a community Land Use Committee (LUC), a diverse 18-member body that included neighbors and other residents, members of City Council, and the site owner. The LUC met nine times and interacted with the larger community during a series of three public meetings. Working with the LUC, the City Planning Department developed an impact analysis of reuse alternatives at the site.

The LUC successfully developed consensus recommendations for either commercial or light industrial uses along with an ecological buffer. The LUC and City officials expect that EPA will incorporate these recommendations into the Agency's reasonably anticipated future land uses (RAFLUs) and cleanup plan for the site, ensuring that the site's remedy will not preclude anticipated  
*(Continued on Page 4)*

## CBCRC Hosts National Conference and Concludes Research Projects

How do we know if community collaboration around natural resource issues really does or doesn't work? The Community-Based Collaboratives Research Consortium (CBCRC) seeks answers to this and other questions. The Consortium is a network of researchers, community collaborative groups, agencies, facilitators, and environmental organizations interested in learning about collaborative approaches to natural resources management. The consortium was co-founded by IEN in 1999, and IEN continues to lead the Consortium's work thanks to a grant from the William and Flora Hewlett Foundation. IEN Director **Frank Dukes** and Senior Associate **Karen Firehock** coordinate the Consortium's work with  
*(Continued on Page 3)*

## IEN Facilitates the Governor's Natural Resources Leadership Summit

Nearly one year later, the impacts of the Governor's Natural Resources Leadership Summit were seen in the 2004 General Assembly and the Governor's proposed budget. Key Virginia leaders - including business, industry, local government, outdoor recreation, environmental, preservation and conservation interests — met in April 2003 to exchange ideas and develop a proactive agenda dealing with Virginia's environmental and resource issues. During the two-day Summit 136 participants identified key natural resource challenges and priorities for action for the next few years.

The IEN facilitation team, led by **Tanya Denckla** and **Frank Dukes**, worked with a stakeholder Advisory Council and an inter-agency Steering Committee to design and plan the Summit. Group discussions were facilitated by Fellows of the Virginia Natural Resources Leadership Institute (VNRLI) and mediators drawn from mediation centers of the Virginia Association for Community Conflict Resolution (VACCR). Four topics were selected for Summit discussion: Water Resources, Land Conservation, Outdoor Recreation Resources, and Wildlife and Fisheries Resources.

An action agenda emerged from this Summit, which led Secretary of Natural Resources W. Tayloe Murphy to appoint special task forces to follow-up on Summit recommendations, including a task force on funding that developed recommendations for the Governor's budget. The final Summit report is available at: [www.naturalresources.virginia.gov/Initiatives/PartnershipSummit/index.cfm](http://www.naturalresources.virginia.gov/Initiatives/PartnershipSummit/index.cfm).

## *IEN Trains Baltimore Planning Department*

In partnership with **Laura Bachle** of Confluence Consulting, **Frank Dukes** and **Karen Firehock** of IEN designed and offered training in mediation and group facilitation for the City of Baltimore Planning Department in Fall 2003. This initial training, offered over a period of three weeks, is part of a larger project to develop a mediation and consensus building capacity within the Department. The project is funded by the Maryland Conflict Resolution Office (MACRO), and the IEN-Confluence Consulting team was selected in response to a request for proposals. Project goals include:

- \* A Baltimore Planning Department mediation team will be able to assess, design, convene and conduct a wide range of processes to address different community conflicts.

- \* Community conflicts will be identified and addressed in ways that create sustainable solutions for Baltimore citizens.

- \* By using a broad range of mediation processes, more community citizens in all sectors will be engaged in resolving community issues.

- \* Citizens will be offered more and different ways in which they may provide their perspective on community issues, and ways in which they may be engaged in local decision-making.

- \* The City of Baltimore Planning Department will be seen and used consistently as a valuable community resource for mediating community conflicts.

A 113-page *Manual of Mediating to Transform Conflict* was developed in response to the planners' needs as identified during pre-training interviews. The planners were able to enhance their considerable skills with new tools and strategies, and will be conducting mediations and consensus building efforts in partnership with Ms. Bachle and other consultants in the near future.

## **IEN Helps Fairfax County Plan for Watershed Protection**

The Little Hunting Creek Watershed Project is a collaborative effort between the Fairfax County Stormwater Planning Division and residents and businesses of Little Hunting Creek watershed. Located in Fairfax County, Virginia, just south of Washington D.C., most of the creek's watershed was originally part of the Mount Vernon Plantation, home to President George Washington. Today, the watershed is highly developed and faces problems common to older urban wa-

tersheds, such as a lack of stormwater controls and severe stream habitat degradation.

Led by IEN Senior Associate **Karen Firehock** and Graduate Associate **Curt Ostrodka**, IEN developed the county's public involvement plan for watersheds and has teamed with Woolpert LLP, a national engineering and land planning firm, to conduct the Little Hunting Creek project. A local steering committee, comprised of stakeholders including local environmental groups, a development corporation, the Virginia Department of Transportation, the National Park Service, a land trust, and others, makes recommendations for what to include in the plan.

A July 2003 Community Watershed Forum educated the community about issues affecting its watershed, introduced possible solutions and provided an opportunity to identify problems and propose solutions. A subsequent developers' focus group resulted in valuable insights from the development community on the feasibility of proposed options and new ideas for reducing impacts from urban land uses. These comments helped shape the first draft of the watershed plan, which is now available for public comment. A December 2003 watershed plan review workshop provided watershed residents and businesses with further opportunities for input on the first plan.

The extensive training and community education component makes this watershed planning project unique and has allowed a higher level of public participation. For more information, please see the project website at <http://www.fairfaxcounty-watersheds.net> or email [littlehuntingcreek@virginia.edu](mailto:littlehuntingcreek@virginia.edu).

## **Bay Area Waterkeepers Explore Collaboration**

The national **Waterkeeper Alliance** brought together nine Waterkeeper organizations that are tending rivers and waters in the Chesapeake Bay watershed to discuss possibilities for new forms of collaboration. A waterkeeper serves as public advocate for a body of water for a specific geographic community. Waterkeepers help to protect the water quality and character of the body of water with a range of tools, including water monitoring and research, investigation, legal action, lobbying, public relations, and community education.

To prepare for this meeting, IEN's Tanya Denckla first conducted an assessment of the issues, challenges, and possible ideas through individual telephone interviews with each Waterkeeper. IEN distributed a written summary of findings to all participants in advance of the meeting. During the day-long meeting facilitated by **Tanya Denckla**, **Frank Dukes**, and Graduate Associate **Christine Gyovai**, Waterkeepers identified potential ways in which they could collaborate and prioritized those that would provide benefits to all. Based on the agreements developed during the meeting, the Waterkeeper Alliance has successfully obtained funding from the Keith Campbell Foundation to help move the proposed collaboration forward.

(CBCRC, Cont'd from Page 1)

assistance from Program Manager **Caroline Wilkinson** and IEN Graduate Associates **Melissa Taylor**, **Curt Ostrodka** and **Christine Gyovai**. Seeking to better understand how collaboration is being used on the ground, in 2002-3 the Consortium funded a series of research grants. Outcomes of this research were presented the following year at a national conference sponsored by the Consortium in Salt Lake City, Utah in September 14-16, 2003. Research papers are online at [www.cbrc.org/grants.html](http://www.cbrc.org/grants.html). Ninety participants attended from government agencies, universities, community collaborative groups, and the dispute resolution field. Each presentation was followed by a facilitated workshop discussion about the methods, findings, and how the research illuminated questions posed by the Consortium's research agenda. Full conference papers, presentations, and discussion summaries are at [www.cbrc.org/events.html](http://www.cbrc.org/events.html).

Another Consortium product, in response to concerns about how research is designed, conducted, and disseminated, is the Protocol and Guidelines for Ethical and Effective Research. Led by Karen Firehock, the Consortium developed the Protocol and Guidelines based on input from researchers, agencies, and community groups. The Protocol provides a quick reference checklist for researchers to help ensure that research is ethical and effective, along with reasons for each item on the checklist. The Protocol is useful to those conducting research, including community groups conducting their own research or partnering with researchers and agencies, and funders who are sponsoring research.

The Consortium also offers an online Journal, available through its member network by clicking on the **Journal** button on the home page. Those who are not Consortium members can join by going to [www.cbrc.org](http://www.cbrc.org) and clicking on 'join the Consortium.' Other useful features of the Consortium's website include the 'Collaborative Projects and Research Database,' an online searchable database of on-the-ground collaborative projects, and a 'Resources Database' of books, journal articles, and papers about collaboration.

## IEN Active in The Larger Community

IEN Director **Frank Dukes** is an invited contributor to a new work examining the state of conflict resolution knowledge. He has published a chapter in the new book *Participatory Governance* describing IEN's work on tobacco issues, and a guidebook for the Tobacco Technical Control Consortium, *Reaching Higher Ground*. He currently is teaching a new seminar "Righting an Unrightable Wrong," which examines the consequences and ways people can confront the legacies of such wrongs as severe environmental injustice, segregation, and genocide.

IEN founder and charter member of Advocates for a Sustainable Albemarle Population **Rich Collins**, wrote an article for ASAP's newsletter promoting his idea of community planning for "optimal population and a sustainable community...a size and scale in which there is enough growth to promote social and political quality, while protecting natural resources and the environment." He was voted a finalist for Environmental Educator of the Year at the 2004 Virginia Environment Conference. He is making presentations to the UVA Law School Symposium on Urban Redevelopment, and will moderate an Earth Day discussion at Charlottesville's City Council Chambers.

Senior Associate **Bruce Dotson** served as an advisor on the Crozet Master Plan Project which was submitted in July 2003. After several public hearings, the plan was adopted in April 2004 by the Albemarle County Planning Commission. He also published an article entitled "How Are You Doing: Comparing Your Community to the Best in Combating Sprawl" in the March 2004 issue of *Practicing Planner*.

Senior Associate **Tanya Denckla** will speak as a panelist at the ABA's April conference on Alternative Dispute Resolution (ADR) about ADR's future in resolving historic preservation disputes. She was invited to speak about her new book, *The Gardener's A-Z Guide to Growing Organic Food* (Feb 2004; Storey) at the Philadelphia Garden Show, Virginia Book Festival, and U.S. Botanic Garden in Washington D.C.

Senior Associate **Karen Firehock** continues her work as a commissioner on the Charlottesville Planning Commission. She was appointed to five standing committees working on issues that include revitalizing low income neighborhoods, establishing new historic districts, master plans for city parks, stormwater planning, and urban infill design. In the Spring, she bought a circa 1900 brick store in downtown Charlottesville and converted it into a single family residence, thereby living out the planning ideals of 'adaptive reuse' and 'walking to work.'

## IEN Helps Industry Leaders Form Sustainable Packaging Coalition

A group of two dozen packaging professionals, ranging from paper and resin manufacturers to consumer product companies, gathered November 6 and 7, 2003, at the University of Virginia's Darden School of Business Administration for a strategic planning retreat to form the Sustainable Packaging Coalition. Senior IEN Associate **Karen Firehock** and Graduate Associate **Christine Gyovai** facilitated the two-day workshop. The project is sponsored by GreenBlue [www.greenblue.org](http://www.greenblue.org), a nonprofit organization based in Charlottesville. The Coalition's mission is to: 1) advocate and communicate a positive, robust environmental vision for packaging; and 2) leverage innovative, functional packaging materials and systems that support economic and environmental health. The Coalition seeks to define sustainable packaging and foster designs that eliminate waste by utilizing materials that are fully compostable as biological nutrients and/or become raw materials for high quality products. With this 'cradle-to-cradle' approach no materials are wasted or landfilled, and packaging quality increases while becoming more functional.

Companies and organizations such as Meade-Westvaco, Rocky Mountain Institute, Starbucks Coffee Company, Dow Chemical Company, Nike, DuPont, and Estee Lauder/Aveda participated in the retreat. The U.S. Environmental Protection Agency attended as an observer. The next meeting has been tentatively scheduled for Spring 2004. For more information about the Coalition and its plans visit [www.sustainablepackaging.org](http://www.sustainablepackaging.org).

*(Superfund, Cont'd from Page 1)*

future use opportunities identified by the community. This pilot project demonstrated the power of consensus processes. Consensus requires meeting the needs of each member of the group, a requirement that forces groups to seek creative solutions that might not otherwise occur. Consensus processes not only change how a group makes a decision; they also change how groups approach problems.

Consensus processes can be powerful, but they are useful only to the extent that participants fully understand and value the requirements of the process. Reasons for the use of consensus decision processes include:

- \* Participants who will have some responsibility for implementing agreements need a say in decisions;

- \* It is important to get all parties to the table, and individual participants who might be skeptical of working with opponents or those they don't know are reassured by having effective veto power over any decisions;

- \* Group members know that they need to attempt to satisfy the needs of all participants;

- \* Minority views which may have been summarily dismissed need to be given real consideration;

- \* A norm of responsibility for the group may be enhanced; and

- \* As a practical matter, decisions with broad-based support are more likely to be implemented.



### Key Lessons from Hagerstown and Other Superfund Sites

1. Site reuse may occur at any time, depending upon factors including the interest of the site owner(s) and community, location and extent of contamination, and schedule of remediation.
2. Different site reuses may be phased in over an extended period of time as economic and social conditions shift and as remediation proceeds.
3. Different populations/stakeholders will have significantly different interests and concerns, and conflicts may need to be reconciled.
4. Concerns about safety and health may diminish but will not disappear, and may in fact require considerable attention.
5. The conception of community involvement for questions of listing, assessment, and even remediation presumes EPA as decision-maker and the community as interested public. But for redevelopment, those roles are reversed. Shared decision-making authority comes largely from the community – elected officials, private businesses and developers, neighbors, and others.
6. Reuse planning must include strategies for effective and legitimate representation, adequate opportunity for extended community involvement, sufficient site-specific information, continuing efforts to address continuing safety and health concerns, and continued linkage with decision makers.

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## First Natural Resources Leadership Institute for the Southern Region

Inspired by the success of the Virginia Natural Resources Leadership Institute (VNRLI), the Virginia Department of Forestry proposed successfully to the U.S. Forest Service that a Leadership Institute be established for the 13-state southern region. With a grant from the Urban and Community Forestry program, the Leadership Institute partners – IEN, Virginia Tech Center for Economic Education, and Virginia Department of Forestry – designed a shorter but still intensive program for the 13-state region. Drawing on the goals of VNRLI, the new program aims to 1) create a network of people across the southeast who can collaborate or help each other on natural resource issues, 2) explore natural resource issues that are regional in scope, 3) stimulate personal and professional leadership development, and 4) expand collaborative problem-solving skills. The SE-NRLI Fellows gathered for two four-day intensive workshops in different locations in the region, once in the fall and again in the spring. Based on interest expressed in the program, beyond the 11 Fellows from 5 states who pioneered the program, the program is expected to evolve and grow in subsequent years. For further information or applications for the next classes of SENRLI or the Virginia NRLI, please contact Program Manager **Caroline Wilkinson** at [ckwilkinson@virginia.edu](mailto:ckwilkinson@virginia.edu).