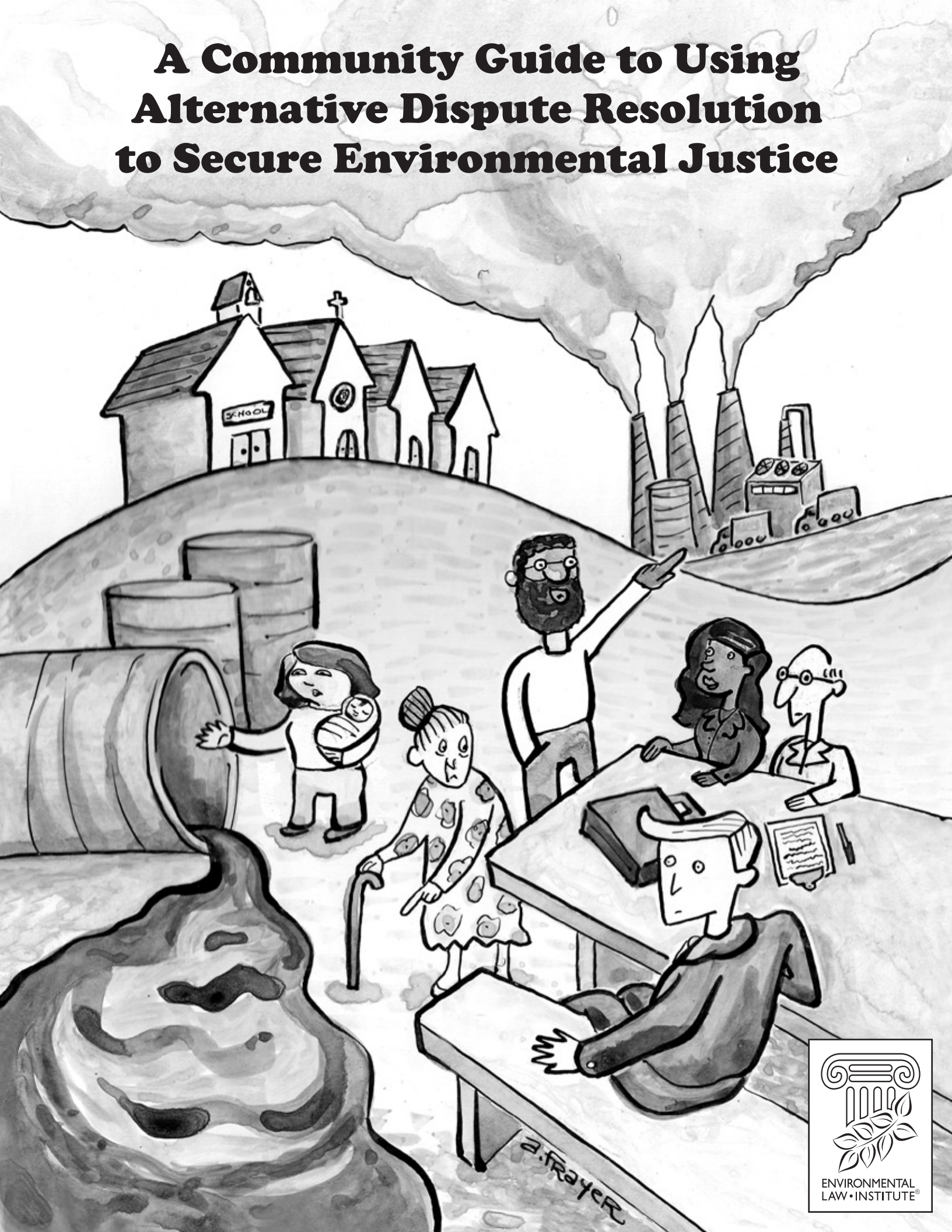


A Community Guide to Using Alternative Dispute Resolution to Secure Environmental Justice



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Preface

This handbook and its supplement, *Environmental Laws and Alternative Dispute Resolution: Tools for Environmental Justice*, compile speaker presentations, references, discussions, and materials developed by the Environmental Law Institute (ELI) in partnership with the U.S. EPA Office of Environmental Justice. They were originally used in a series of workshops for community representatives on alternative dispute resolution and environmental laws. These workshops took place across the country from 2004 to 2009, as follows:

Albuquerque, NM (EPA Region 6)	September 2004
Newark, NJ (EPA Region 2)	September 2005
Denver, CO (EPA Region 8)	March-April 2006
Chicago, IL (EPA Region 5)	September 2006
Philadelphia, PA (EPA Region 3)	March 2007
Boston, MA (EPA Region 1)	October 2007
San Juan, PR (EPA Region 2)	May 2008
Kansas City, MO (EPA Region 7)	October 2008
Seattle, WA (EPA Region 10)	April 2009

The workshops provided training in the use of environmental laws and alternative dispute resolution techniques as a way to “get a seat at the table” and address environmental problems. This handbook pulls together the information and materials presented to provide a practical blueprint for the workshop participants to follow in their future community activities and to disseminate the lessons learned from the workshops to a wider audience.

Introduction

The purpose of this handbook is to assist communities in using alternative dispute resolution (ADR) techniques to solve environmental problems. Unlike lawsuits—where lawyers speak on behalf of communities, and judges decide the outcome—ADR is a tool for communities to seek change with their own voices, to share in decision-making, and to promote innovative solutions. ADR also can be used in cases where there is no clear legal claim or where litigation is just not practical or affordable.

Using ADR to address local environmental problems

This handbook uses the term “ADR” broadly, to cover a range of tools and skills that can help people address an environmental problem without going to court. Instead of litigation, a community can use ADR techniques to talk and negotiate with the party most able to resolve the problem, such as the company causing harmful pollution or a government agency with the power to step in and help. Usually, ADR involves a “neutral”—a person with no stake in the outcome. The neutral helps design the process for reaching an agreement, and oversees that process to ensure that it is fair to all parties.

In other words, in ADR everyone on both sides of the issue is heard and shares in decisionmaking. The forms of ADR discussed in this handbook are all completely voluntary. This means that the community has an opportunity to consider and consent to each stage of the process—from deciding to participate, to choosing the type of ADR to use, to reaching a final agreement. The handbook does not cover court-ordered arbitration or any form of binding arbitration.

There are several reasons why communities may want to use ADR to resolve disputes. ADR provides an opportunity for community members to reach creative, custom-made solutions. Because the goal of ADR is to find solutions that satisfy everyone involved, communities can avoid the risk of an “all-or-nothing” result, which often happens with lawsuits. Because everyone must work together to shape an agreement that addresses the concerns and interests of all participants, ADR can also improve relationships between parties in conflict. This can be beneficial because these same parties likely will have to continue to work together, or at least to co-exist, in the future. And although preparing for and using ADR can take time, anywhere from a few months to a few years, it is almost always faster—and much less expensive—than a lawsuit.

ADR is not right for every community or every environmental problem, so each community must decide for itself whether it will be the best approach. Successfully using ADR requires unity and the ability to consider a range of options to resolve your dispute. Because ADR can be part of other community organizing efforts, communities that are interested in ADR must decide how it fits into their overall strategy.

The connection between environmental law and ADR

Environmental laws are laws that are intended to protect people and the environment from the effects of pollution and toxic chemicals, as well as to safeguard natural resources. Environmental laws can be passed at the federal, state, or local level. Sometimes more than one law can apply to a particular environmental problem or situation.

Environmental laws create opportunities for using ADR to address environmental justice problems. For example, if community organizers have information suggesting that a company is violating an environmental law or local ordinance, the company may agree to participate in ADR instead of risking a citizen lawsuit, which can be expensive, time-consuming, and damaging to a company's reputation. Communities can rely on their understanding of environmental laws to persuade polluters to address problems through ADR.

Environmental laws can also be important tools for gathering information. To be successful with ADR, a community needs to arm itself with accurate, credible information. Good information is necessary for a community to be persuasive, and thorough research will help ensure that industry or government officials take the community and its concerns seriously. The more evidence you have about the severity of a problem, and the greater your understanding of the issues involved, the more convincingly you can present the need for the outcomes you are trying to achieve.

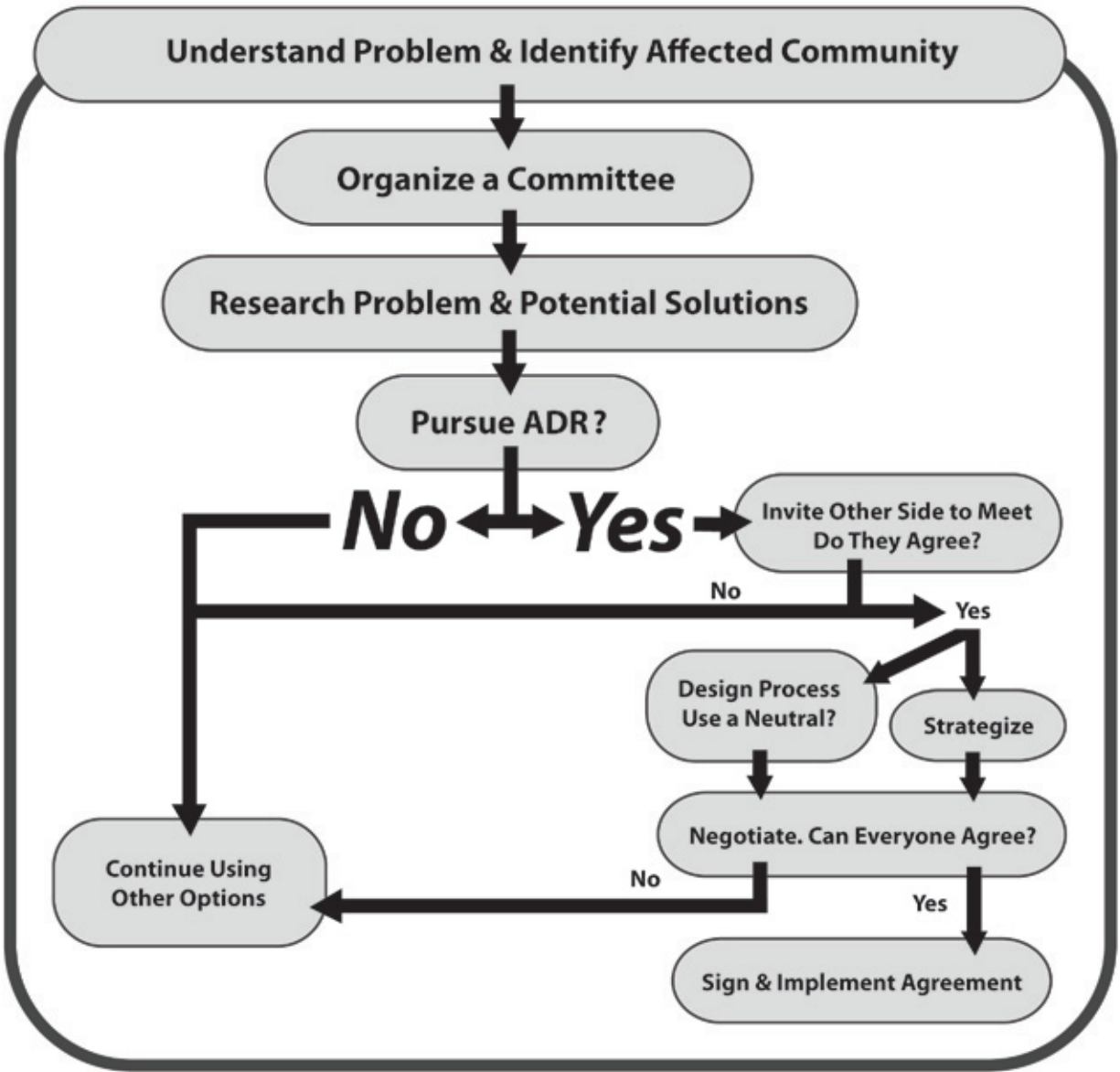
The supplement to this handbook, *Environmental Laws and Alternative Dispute Resolution: Tools for Environmental Justice*, contains basic information about environmental laws and how communities can use them. Previous ELI publications, including *A Citizen's Guide to Using Federal Environmental Laws to Secure Environmental Justice*, and the video *Communities and Environmental Law*, also provide detailed information on legal tools, and are available for free at: http://www.eli.org/Program_Areas/community_resource_center.cfm.

Structure of the handbook

This handbook traces the ADR process, as illustrated in the flowchart on the next page. The handbook begins by describing how to think about the problems and who is affected. It explains how to organize a core team of community members into a steering committee and how to conduct research. Because environmental laws are very technical, you will often need to work with experts who can help compile data and build the case for change. Once you have done your homework, this handbook can help you decide whether to try ADR.

If you think ADR is the right choice for your community, the next step is to convince whoever is causing the problems—or has the power to correct them—to participate in the ADR process. Then, you work together to select an ADR approach that meets your needs, and decide whether you want to have someone help guide the process; if so, you select a neutral that is acceptable to all parties. At the same time, you will be developing your negotiation strategy. Finally, you participate in the ADR process, and hopefully reach an agreement with the other side. Negotiated solutions can take time, and it may be a while before you see results—so it is critical to plan carefully for how your agreement will be carried out and monitored.

To illustrate how the ADR process works, the handbook tells the story of Maple Plains, a fictional community that successfully uses ADR to resolve an environmental justice problem. The box on page 6 describes the situation in Maple Plains. Throughout the handbook, other boxes describe the steps the Maple Plains community takes as the ADR process progresses.



The Story of Maple Plains

Maple Plains is a mid-sized urban community. Most of the families are African-American and Latino, and many are low-income and working-class. The neighborhood has been quite stable for many years and some residents can trace their roots in Maple Plains back about 100 years. The largest and oldest commercial enterprise in the city is the Belvedere Steel Mill, founded in the early 1920s. Some of the community members work at the plant.

Some months ago, a member of the community noticed that a small plot of land in a residential area on the edge of Maple Plains was being used to store unmarked 55-gallon drums. Although the area is fenced off, the drums are causing concern. It is not clear who maintains the site, although there are rumors that people have seen trucks there with “Belvedere Steel” painted on them. The mill is located in another part of the city.

When the drums were first spotted, two were observed to be on their sides, possibly spilling some of their contents onto the ground. Some members of the community went to the city Department of Health about the drums. Their understanding is that the Health Commissioner called someone who had the fallen drums set upright so that they would not leak.

In any case, recently people have spotted more drums at the site, several lying on their sides. Alarmed, members of the community have begun to discuss what they should do about this apparent environmental health hazard. One of them called the Health Commissioner, but was told that the Commissioner had done all that she could absent a demonstrated public health risk.

What the handbook is not

There are many tools and strategies for addressing environmental problems. This handbook focuses only on ADR and does not cover other approaches that communities can use, such as contacting elected officials, protesting, and conducting media campaigns.

Because the handbook is intended to be used by any community, it does not provide detailed information about particular environmental problems or identify local organizations that may be able to help you. It is important to learn about local groups in your area because they might be valuable partners or sources of key information or other support. The U.S. EPA Office of Environmental Justice has regional offices located across the country that can help with environmental justice problems, see <http://www.epa.gov/environmentaljustice/wherelive/index.html>. Many states also have offices of environmental justice that may be able to help. Moreover, many community environmental justice organizers have found that it can be helpful to reach out to neighborhood associations, churches and other religious institutions, colleges, city agencies, or other groups or institutions that could play a role in resolving the problem.

It is important to note that the relationship between tribal governments and the federal government is governed by an entire body of law that is different from state and federal law. For more information, please consult the EPA American Indian Environmental Office at www.epa.gov/Indian.

Finally, although this handbook can help you understand and use ADR, it does not provide legal advice. Your legal rights can depend on many different laws, as well as on the specific details of your situation. This handbook is not a substitute for consulting with an attorney.

Part 1: Preparing for ADR

Before beginning ADR, it is important to learn as much as you can about the problem you want to solve, because your understanding will determine how you approach the entire ADR process. In fact, your definition of the problem will probably change as you do more research. This section of the handbook will lead you through this critical first step, which may require a lot of time and effort.

Understanding the problem

Begin by describing the problem. Think carefully about each of these questions and write down your answers in as much detail as possible:

Who is affected by the problem?

- Where do most of the people who are affected live and work?
- What is the race, ethnicity, income, and age of the people affected?
- Are “sensitive populations” of people (such as children, women of child-bearing age, the elderly, or people with asthma) affected? If so, roughly what percentage of the population is affected?

What are the impacts of the problem on people and the environment?

- Are people getting sick? Is quality of life affected? Are they suffering stress?
- Is there physical evidence of the problem? For example, is there an oily film on surface waters or windows? Soot in homes or on windows? Is there an unusual smell in the air? Does tap water look or taste different?

When did the problem first occur?

- How long has the community been affected?
- What are the key events in the history of the problem? Develop a chronology of events with specific dates and times, if possible.
- If you are trying to prevent a problem from occurring, how long do you have before it starts?

How are people exposed to the hazard (if your problem involves pollution)?

- What is being polluted? Pollution can enter soil, air, groundwater, or surface water bodies like lakes and streams.
- If the problem involves exposure to chemicals, how do the chemicals get from the environment to the people? Common “pathways for exposure” include touching soil, breathing air, drinking water, or eating food (such as fish from a local river or vegetables from a garden) that has been contaminated.

Once you have a definition of the problem you want to solve, think about why the problem exists in the first place. Figuring out the **root causes** will help you focus on possible solutions and on the problem-solving process. Consider who is responsible for causing the problem (for example, a polluting factory), and who might have prevented it (for example, a government agency).

Once you have figured out the root causes of the problem, you will be ready to start thinking about **acceptable solutions**. Keep a list of potential solutions and update it as you continue your research.

Getting organized

Because ADR requires a tremendous amount of work, it is essential to bring together various members of the community. One way to work together effectively is through “community-based participatory research” (CBPR). CBPR takes advantage of community knowledge and gives key roles to community members in research, problem solving, and information sharing. CBPR helps identify and take advantage of experts with the special skills needed to research and solve a particular problem. Even if your community does not start a formal ADR process, these organizing efforts and research strategies will be helpful in addressing your particular environmental issues.

Organize a steering committee. A steering committee is a group of community members who lead

Maple Plains Identifies the Problem

Mary, a grandmother who lives just two blocks away from the storage site, has become concerned about the site. She tried inviting neighbors to her house to discuss the problem one evening, but many explained that they worked a second job and simply did not have time. The only person Mary could find to help her was Ken, an acquaintance from church who had become a community leader through his work on the PTA.

Ken and Mary developed a plan to start learning whether the barrels were a serious threat to the community. One Sunday, they announced their concerns at church, and a few people approached them after the service to discuss the issue. Over the next month, a few neighbors and friends and one young man from the church spent Saturday mornings knocking on doors within a five-block radius of the site. The group first made lists of houses and apartments to visit—starting with residents they knew. They brought along pads of paper and pens, and took notes on their conversations. While carefully noting the names and addresses of people with whom they spoke, they wrote down details of the residents’ observations of activities at the site, as well as their particular concerns and ways in which they believed they were being affected.

They discovered that almost all the residents had noticed the barrels, and many were also concerned about leakage. A few families close to the site feared that their children might be tempted to enter the fenced-in area, and would be exposed to harmful substances. Others thought the substance might be leaking outside of the fenced-in area. Residents of the neighboring assisted living facility were particularly concerned. One elderly gentleman had become nauseous and lightheaded after eating vegetables from his garden plot. A few people suspected that soil or air had been contaminated by spills from the site.

The community’s research broadened. Committee members wrote requests to city, county, and state officials for copies of applicable permits for the site. They tried to find employees of Belvedere Steel who could speak with them about its practices, and they requested property records from the city and county governments. They learned that Belvedere owned the site.

While knocking on doors, the neighbors were also able to convince about a dozen people to come to the next meeting at Mary’s house. Ken volunteered to compile the interview notes and observations to present to the group. At the meeting they started to define their concerns, asking questions like: Why is someone putting the barrels there? Are all of them from the Belvedere plant? Is the Belvedere plant allowed to put the barrels there, or are they doing it illegally? What’s in the barrels and is it dangerous? Is this use permanent? Has this happened before?

the research effort. The committee may also include other experts, but it is critical that community members make up a majority of the committee to ensure that the community remains in control.

You can start organizing the steering committee by announcing it to the entire community through the local papers and community e-mail lists. Recruit people who share your concerns and are willing to help. Reach out to key groups, such as community development organizations, local environmental groups, the PTA, and churches or other religious institutions.

Next, recruit other experts. The appropriate partners will depend on your particular situation, but it often makes sense to start by contacting professors at local colleges. If your community group does not already have a contact at a particular college, call the school or check its website for the department that teaches environmental science or public health, to find a faculty member who has relevant expertise or is active in public service. College professors often put their biographies on the school's website, and a quick search may find someone with relevant expertise or who may suggest other experts. Professors may also have students who are available to help your organization, either for potential college credit or for the experience.

Develop "principles for collaboration" for your committee. To be clear about how you will carry out CBPR tasks (and to avoid conflict later), it is important to agree up-front on how you will work together. Your own principles for collaboration will depend on the needs and relationships in your community. Here are a few elements to consider:

- How will your committee reach decisions? Some groups require all members to agree on a decision, while others rely on majority votes.
- How will you keep the community informed at each major step in the process?
- Who will speak on behalf of the group?
- What are the rules about speaking to people from industry or government who might end up "on the other side of the table" in an ADR process? You might decide that committee members should never meet with these groups alone. Or, if representatives of your group do meet with people from industry or government, how must they consult with the rest of the group?
- How will you make decisions about spending funds?

Who are possible experts in my community?

These people may be valuable resources, either as committee members or as sources of information:

- College professors, including professors of public health, engineering, chemistry, and law
- Student organizations, such as pre-medical clubs, environmental groups, community service sororities and fraternities
- Doctors and nurses (and their professional associations)
- Non-profit organizations, including environmental and public health groups
- Lawyers, such as staff attorneys at public interest organizations and members of your state bar association's *pro bono* program
- Neighborhood associations and other civic organizations
- U.S. EPA Regional Office of Environmental Justice
- State environmental justice programs
- Local government officials, such as planners

- How often will you meet?
- Who will be primarily responsible for carrying out each task?
- Do the committee members who lead other community groups speak for those groups when they work on the committee? If the committee is a tool for forming a coalition of community groups, it can be more powerful—but there also should be a process for how the different groups work together.

Once you reach agreement on these issues, summarize your principles of collaboration in a single document, and ask each member of the steering committee to sign the document.

Collecting information

Making the case for change through an ADR process depends on having good information. For most communities, this information will come from a combination of community knowledge, technical data, and knowledge of environmental law.

Community knowledge. Community members typically have lots of information about what is going on in their neighborhood. Talk to people in the community to find out exactly how the problem is affecting them and their neighbors. Gather any photographs, videotapes, or audiotapes that help to document the problem—where it is coming from and how it is affecting people and the environment. The “Community Workbook” that is included in the supplement to this handbook, *Setting the Table for Environmental Justice: A Collection of Environmental Law Materials for Communities*, suggests some questions that may help you get relevant information from community members.

In addition to talking with individuals, you can hold community dialogue sessions on the problem. This is an opportunity to meet potential partners and learn more about the community’s knowledge, concerns, and ideas. It is important to talk to community elders with historical knowledge of the problem, and to workers with an inside view of company operations. Conversations with parents may be especially helpful in documenting perceptions about any health impacts, including the effects on children’s birth, development, or overall health.

It is important to keep written notes of information that community members share with you through community meetings and individual conversations.

Technical data. Although collecting community knowledge is important, it is also essential to gather information from many other sources. Below are some common examples of places where a community might learn more about a problem. You may come up with additional sources of research and information.

- *The internet.* Spend time exploring the internet to find relevant information. For example, you might learn more about a company that is causing problems by visiting that company’s website. Or if you know that a specific substance, like lead, is causing health problems in your community, a Google search for “lead health effects” will connect you with a variety of resources. Your internet research will take patience and creativity.

Maple Plains Forms a Steering Committee and Conducts Research

Based on their preliminary research and discussions, Mary, Ken, and a few other community members decided that the location and apparent mismanagement of the site was a serious problem. They decided to get organized and better informed to do something about it.

The group thought having an organized leadership structure would help in the long run. They planned another meeting at Mary's house to select people to join a steering committee. In addition to Mary and Ken, three more community members joined the committee, including the leader of a community development organization with significant organizing experience.

The group announced the formation of the committee with flyers and outreach to other community groups. The steering committee then developed a process for making decisions. Everyone would have an opportunity to express his or her views, and they would attempt to reach consensus about all major strategic decisions and public statements. The committee worked together to write out their principles of collaboration, and the members signed the agreement.

The committee members decided to identify people with particular relevant expertise who might support their efforts. The members shared the task of reaching out to all the experts they could think of. Ultimately they decided to invite a retired environmental lawyer and an environmental science professor, who they felt were trustworthy and shared the community's vision to assist the steering committee.

For a few more months the steering committee coordinated a research effort. Citizens collected data about what they were observing: what time they saw barrels being dropped off at the site, occasions when they saw leaking barrels, any peculiar smells, any unusual health problems, and other events they thought might be worth noting. They also spoke to a former employee of a different steel mill, who remembered a lawsuit against his old employer when that mill illegally dumped industrial materials.

Realizing they might have the ability to sue under certain environmental laws, the committee asked the retired environmental lawyer to help identify which laws might be relevant to their situation. While they were more interested in cleanup than a lawsuit, they knew the threat of a lawsuit might make Belvedere more responsive to their demands. The environmental science professor also was helpful – she found and explained some articles on the impacts of chemicals that might be associated with specialty steel fabrication, and identified some graduate students who might be willing to do more research.

- *Government databases.* The federal government collects an enormous amount of information that can help communities facing environmental problems. Appendix A, Databases Established for Environmental Laws, provides a guide to the major federal databases, which can be accessed on the internet. These databases contain, among other things, permit and enforcement records, air monitoring reports, and data about toxic emissions.
- *Permits.* Federal environmental laws require government-issued permits for activities relating to:
 - Air pollution. Under the Clean Air Act (CAA), permits control what chemicals can be released into the air, how much pollution can be released, and how it must be controlled.
 - Water pollution. The Clean Water Act (CWA) sets permitting standards for pollution that moves from pipes and other “point sources” into waterways.
 - Waste treatment, storage, and disposal. The Resource Conservation and Recovery Act (RCRA) creates a permitting scheme for waste management.

If your environmental problem involves a specific facility, it is critical to find out what the facility is legally allowed to do and what permits may be required of it. The federal databases described above can help you find what permits a facility holds by name and location, as well as give you valuable general information about the facility and its enforcement history.

You may also contact the agency that issued the permit and request a copy. These permits are typically issued by your state's environmental agency, though in some instances they may also be issued by the U.S. EPA. You can learn more about how federal environmental laws work—and how states often administer these laws—in *Environmental Laws and Alternative Dispute Resolution: Tools for Environmental Justice*. Before visiting or contacting your state agency, you should develop a clear idea of what type of permit information you want to request.

- *The Freedom of Information Act (also called "FOIA")*. FOIA gives the public access to most information that is held by a federal government agency, as long as the information is not subject to a legal exception. To obtain these documents, you must send a written request for specific information to a federal agency. It is important to be as specific as possible about what you are looking for. More information on FOIA and a sample FOIA request letter appear in *Appendix C, Sample Freedom of Information Act Request Letter*.

Additionally, each state has its own law that allows citizens to access public records in the possession of state agencies. You can find information about state laws on this website: <http://www.nfoic.org/state-foi-laws>.

It may take a state or federal agency a long time to respond to a FOIA request, so you may want to use this tool at the same time that you are starting other research strategies. The information you seek may already be publicly available online through one of the databases described in *Appendix A*. In other cases, you may be able to get the information you need by calling or visiting the appropriate government agency offices.

- *Environmental Impact Assessments*. In many cases, governments analyze the environmental and public health impacts of a new facility or other type of project before it can be built. The National Environmental Policy Act (NEPA) requires federal agencies to study the environmental



impacts of any major actions they plan to take, including large activities funded with federal dollars or private facilities that require federal permits. The Environmental Assessments (EAs) and Environmental Impact Statements (EISs) required by NEPA are good sources of information about the anticipated environmental impacts and options for avoiding them.

You may be able to find an environmental impact assessment even if the facility in your community is not regulated by the federal government. Several states have laws similar to NEPA that require state agencies to consider and disclose environmental risks before permitting a project. In a few states—California, New York, Washington, and Hawaii—city and county governments must perform environmental reviews before approving certain projects.

- *Records of property ownership and other property transactions.* Local county and city government offices can be a rich source of public information about property ownership and transfers. You might need this information to find out who owned a facility at a particular time in the past when it caused problems, or if you are having difficulty determining who the current owner is.

Local governments maintain this information in different ways and in different offices. For example, your town may do it through the clerk of court, a recorder, a register of deeds, etc. Some government offices make this information available online, but often you will have to visit the office in person to ensure you have the information you need. Moreover, every locality has an office that handles property information, which might include plats, deeds, mortgage documents, liens, and information on easements and rights-of-way.

- *Past lawsuits.* You may learn that someone else brought a lawsuit in the past against the polluter, possibly for the same problem you are facing. If so, you may be able to benefit from their efforts. Information and evidence developed in lawsuits is almost always available to the public through the files maintained by the clerk of the court in which the case was brought. In the early stages of any lawsuit, the parties use a process, known generally as “discovery,” to obtain large amounts of information and evidence from each other.

A visit to the courthouse clerk’s office with a “docket number,” or unique number assigned to each lawsuit, will give you access to most of these materials, which you can usually photocopy at the courthouse. It will often be easiest to begin by obtaining from the file the name and telephone number of the lawyer who brought the lawsuit, and asking if he or she can direct you to key pieces of information—and perhaps provide you with insights about the case that may not be obvious from reviewing the files.

- *Whistleblowers.* A whistleblower is a person, usually an employee or former employee, who reveals dishonest or illegal conduct that is happening within the government or a company. Whistleblowers with inside knowledge of the problem faced by a community are a rich source of information, but they can face very real personal and career risks. Many laws try to protect whistleblowers from retaliation by their employers for reporting violations, but, sadly, retaliation is still common. For a guide to whistleblower protections in federal laws, see <http://www.dol.gov/compliance/laws/comp-whistleblower.htm>.
- *Local resources.* Local government records can provide useful information about industrial facilities. The facility may have gone through a City Hall approval process, or complaints may have been made to the City Council about it. City Council records are generally available by visiting the Council clerk at the town hall, and some communities now post meeting agendas and minutes online.

Community-based research. Even with the wealth of information available through these sources, to prove there is a problem you may need new data that does not yet exist, such as water or air monitor-

ing data. Communities can take the lead on efforts to study environmental and public health impacts. The resources in *Appendix E, Publications and Web Resources on Community-Based Research*, can help you use community-based participatory research to investigate the problems in your community.

Environmental law. Environmental laws can help you prepare for ADR in two different ways. First, as discussed above under “Technical data” and listed in *Appendix A*, many environmental laws require companies and government agencies to make information available to the public. Second,

environmental laws set forth legal requirements that can act as “hooks” to bring a company or the government to the table and help find a resolution to your community’s problem.

For more information about federal environmental laws, see *Environmental Laws and Alternative Dispute Resolution: Tools for Environmental Justice*, which is a supplement to this handbook.

In addition to federal environmental requirements, a state usually has other environmental laws that authorize the state department of environmental quality or another agency to regulate dangerous activities or other aspects of environmental problems. State tort laws can also be used by injured parties to sue for monetary compensation when they have been harmed by another person’s wrongful acts.



At the local level, there is tremendous variation in the way city and county governments regulate environmental issues. Local government bodies such as city and county councils typically control activities through local laws, known as ordinances. When local governments have authority over decisions with environmental justice implications, it is usually through the process of zoning for or permitting industrial facilities. If you are concerned about a new facility that is being planned in your neighborhood, you will want to participate as much as possible in the local permitting discussions. It will take time, and possibly some expert assistance, to research any important state or local laws that might play a role in addressing the environmental problem that you are working on.

Research potential solutions. Once you understand the problem, its cause or causes, and the relevant environmental laws, you will be in a good position to figure out how to fix it. Based on your knowledge, you can build a list of potential solutions. Your committee should not begin to advocate

for any particular solution, however, before answering some key questions: Would the “solution” effectively address the problem? How much would it cost? Who has authority to make it happen? Does everyone agree that this is the right solution to pursue?

Sometimes, the experts on a *problem* are different from the experts on a *solution*. For instance, doctors and nurses might be the best experts on the problems facing communities with high asthma rates. Medical professionals can help identify research that shows how chemicals in air pollution cause asthma and the severity of the problem. They might also be experts on some types of solutions—like early medical screening and treatment. But those medical professionals may not know about the technologies available to reduce the pollution from a factory.

You will want to reach out to experts such as engineers to learn about technologies that might help. For instance, you might contact the EPA’s Office of Environmental Justice (<http://www.epa.gov/environmentaljustice/contact/index.html>), or professors and students of environmental engineering at a local college or university.

Financial resources

Getting ready to undertake ADR does not need to be expensive. Costs often do arise from the intensive work of preparing for ADR, but you may be able to find experts and other partners who are willing to volunteer their time.

Community leaders can think creatively about how to undertake ADR at little or no cost. For instance, community groups can often hold negotiation sessions in libraries or community centers to avoid paying for meeting space. The next chapter (“Getting a Seat at the Table”) offers additional advice on finding an affordable expert to help with the

Supplemental Environmental Projects

As you do your research, you may discover that a government agency, such as U.S. EPA, is already investigating or bringing an “enforcement action” against a company that is causing problems in your community. Or you may successfully prod the agency into acting. In either case, you should investigate whether a Supplemental Environmental Project (“SEP”) might help your community benefit from the government’s enforcement action.

SEPs are a special opportunity for communities to benefit directly from an enforcement action that the EPA or state environmental agency brings against an alleged violator of environmental laws. Simply put, an enforcement action is anything the government does to compel someone to follow the law or stop an illegal activity, such as suspending a permit or seeking financial or criminal penalties. Often, the result is a settlement between the alleged violator and the government agency, a binding agreement in which the violator agrees to pay a fine and to follow the law in the future. A SEP is a new environmental or public health project that the violator undertakes in exchange for a reduced fine.

What actually happens in a SEP depends on the problem at hand. For instance, if a factory has produced air pollution that contributed to increased asthma rates, a SEP could fund asthma screening in local schools. SEPs can address public health, pollution prevention, environmental restoration, and other related issues.

If EPA is bringing an enforcement action against a company in your community, you can contact the company directly and ask to discuss potential SEPs. They may be happy to design a SEP with you—especially if you will help convince the government to include a SEP in the settlement agreement. Usually, it makes sense to develop a SEP proposal with the alleged violator first and then seek official approval. Throughout your talks with the alleged violator and the agency, you can take advantage of the negotiation tips in this handbook.

For more information about SEPs, see *Environmental Laws and Alternative Dispute Resolution: Tools for Environmental Justice* and <http://www.epa.gov/compliance/civil/seps/>.

ADR process.

If you think you may have to hire experts or pay for anything else, you may want to apply for a grant from a government agency or a private organization. Different grant programs support different kinds of activities, so the first step is to figure out what particular programs might be able to help you. The EPA has some programs that support community-driven efforts to study the effects of pollution and improve the environment. In addition, there may be private foundations in your state that support local environmental, health, or other related community issues. *Appendix F, Web Resources on Grants*, can help you find grant programs that assist environmental justice communities.

Community leaders can explore several fundraising options beyond grants. Depending on the situation, you may receive financial support from individual donors, churches, or creative fundraising activities.

Putting the pieces together

Once you and your committee have collected all the information you can gather, it is time to figure out how it all fits together, and then to communicate what you have learned to the broader community. There will be a lot of information to review, think about, and organize. Here are some tips for making the leap from the preparation stage to the negotiation stage.

First, organize and analyze all the information you now have about the problem and its effects on your community. Start by bringing all of the data and information together in one place. As you review your research, ask yourself the following “big picture” questions:

- Can you draw a strong conclusion about what is causing the problem in your community?
- Has your understanding of the problem changed since you began your research?
- What are the biggest concerns?
- Can you describe precisely how severe the problem is?
- Are there any remaining gaps in your understanding of the problem?

If you are relying on experts to analyze data, it is important to talk with them and discuss the details until you have a solid understanding of the facts.

Second, compare potential solutions. You can use these questions to structure your committee’s conversations about what the community needs:

- What solutions are available?
- Which is the best solution?
- What other solutions might be acceptable, assuming that you cannot obtain the best solution?
- How would you rank the possible solutions?

The community may want the landfill to close or the factory to move out of town, but these types of solutions are the most difficult to achieve—and the give-and-take of ADR probably will not obtain this kind of result. So, consider as many kinds of potential solutions as you can. For instance, there may be



modern equipment that the factory could install to reduce the pollution being emitted or minimize its harmful effects. More simply, there may be new protocols that the company could adopt by way of staffing, waste disposal, changing the timing of certain events, or other methods of doing business that reduce the impact of the problem.

Once you start ADR, the other party may suggest solutions that you did not think of before. The people who own or operate a facility are likely to have expertise on possible solutions, and may have good ideas for improvement. Be wary, however, of solutions that may be cheaper or easier for the company to perform but do not adequately address community concerns; and use your own experts, if you have them, to verify the effectiveness of proposed solutions.

Third, decide whether ADR is a good tool for trying to achieve the solutions you want. Now that you have a strong understanding of the problem and possible solutions, it is time to decide whether, all things considered, an ADR process is the best tool for your community. As discussed above, ADR is attractive for many reasons. While ADR can take anywhere from a few months to a few years, it can usually help you assert your rights under the law with less time, expense, and risk than is required to bring a lawsuit. ADR also affords community members an opportunity to come up with tailor-made solutions. In contrast, often the best result you can achieve in a lawsuit is a cash payment or minimum compliance with the law. Perhaps most importantly, the ADR process never imposes an outcome on a community. If another party is uncooperative or an acceptable solution to the problem cannot be reached, the community is free to walk away and pursue other remedies.

On the other hand, ADR is not necessarily the best approach for every community and every situation. Some signs that ADR might not work for your community's problem include:

- The other party has been dishonest or has acted in such a way that suggests a lack of commitment to working with you in good faith.
- There is only one solution, such as closing the offending facility, that will resolve the problem, but it is unlikely other parties will agree to that solution through a voluntary ADR process.
- You need something to change very quickly, perhaps because residents or the environment are facing serious, immediate danger.
- There are no agreed-upon, trusted leaders who can credibly speak for the community as a whole, or there are deep divisions within the community on some aspect of the problem or the best way to resolve it.
- Any agreement you reach could affect people who are not participating in the ADR process.
- Most members of your community have determined that litigation is the only way to meet their needs.

Even if you decide *not* to pursue an ADR approach, all of your research and preparation can help you with other strategies that your community may wish to try.

One tool that can be used to help decide whether ADR is viable for your community is a **convening**. Usually, a convening involves asking a neutral to meet with all known parties to a dispute, to assess whether it makes sense for them to attempt to resolve their differences through ADR. Often the convening will result in a written report indicating the neutral’s assessment of whether an ADR process would be appropriate. The neutral can also help you understand the different forms of ADR and identify all the groups that should be involved with an ADR process. Hopefully, you will also get a sense from the convening as to whether the parties can communicate honestly and find common ground. EPA may be able to help you organize a convening for free. See http://www.epa.gov/adr/cprc_adrcontacts.html for contact information of the ADR specialist in each EPA region.

When thinking through how to respond to the environmental problem facing your community, be

Maple Plains Evaluates the Options

Based on its research, the committee identified several chemicals that were likely byproducts of Belvedere’s operations – substances that might be leaking from the drums. They discovered that the plant once had a permit to temporarily store some of its nonhazardous waste at the site, but that the permit had expired. Part of the permit required the company to maintain the drums to a high standard and to ensure that there was no leakage. It turns out that the city had recently approached Belvedere about its expired permit, but that Belvedere had not responded. People realized this information could give them more leverage in ADR or could open the door to other options, such as a lawsuit, demands for government action, or public exposure and pressure.

The steering committee brought the community group together to share these findings and to agree on the group’s priorities. They decided they were willing to consider any solution that effectively protected their health and community. They were also satisfied that they had thoroughly conducted their research. Based on these factors, the community decided ADR could be the right approach if the company would agree to participate.

aware that private companies may respond aggressively when they think a community group is attempting to constrain their business activities. They may believe that an aggressive initial posture might scare away the community activists before a movement can grow. In some cases they may even bring litigation against a community group. For more information, you can get a free copy of *Strategic Lawsuits Against Public Participation (SLAPPS): A Guide for Community Residents and Environmental Justice Activists* at ELL's website: http://www.elistore.org/reports_detail.asp?ID=11073.

Finally, confirm community support before you try to initiate ADR. As a community leader, you already understand that community support and agreement are essential. You will be more likely to get a seat at the table—and be a more effective negotiator—if the community stands with you. In addition, engaged community members can help you spot any problems with your approach and improve your strategy. Some communities may be wary of ADR because of previous bad experiences with court-ordered arbitration, so it may help to show how the community can take a leading role in the ADR process and in any solutions coming from it.

Check your readiness for ADR

Understanding the problem

- Define the problem
- Identify the root cause of the problem

Organizing for ADR

- Seek input from people affected by the problem
- Find experts who are willing to help
- Establish a steering committee
- Obtain grant funding, if necessary and available

Doing the research

- Collect and analyze community knowledge
- Collect and analyze technical data
- Research environmental laws and permits
- Check for information gaps
- Identify people in industry and government who can help solve the problem
- Identify possible solutions

As you perform these tasks, you may realize that you need to return to an earlier step. For example, after collecting data, you might realize that the problem was bigger—or different—than originally thought. You then may need to reach out to more community members who have been affected. Or you may discover that you need more information about some aspect of the problem or a potential solution, leading you to apply for research grants or to contact more experts.

Part 2: Getting a seat at the table

If, after researching your problem, your community determines that ADR could help, it is time to persuade the other party or parties to participate, decide which ADR technique is right for your community, and set ground rules that meet your needs.

Initiating ADR

The most common way of initiating an ADR process is by sending a letter to the party with whom you want to negotiate. If you already have a relationship with someone at the company or agency, you can address your letter to that person or ask that person where to send the letter. Otherwise, you might address the letter to the manager of a facility, the head of a government office, or whomever you reasonably believe has the power to address the problem. Here are a few tips for making your letter persuasive:

- *Briefly explain the issues you want to discuss.* This will help the recipient understand why you are concerned and anticipate whether you can find common ground. Briefly describe the environmental conditions in the community. At this stage, you should not state specific demands.

For instance, your letter might state that your community has observed the facility emitting particulate matter that looks like black soot and settles on neighboring homes. You might then explain that your community has a high rate of asthma and other respiratory illnesses. You should include specific facts from your research, such as health data that may include available county health statistics, the results of your own health surveys, or references to a community outbreak of diseases associated with the facility's emissions. You could also include relevant environmental data, such as results from air monitoring or soil sampling. Including this information will show the company you have done your research and are serious about putting in the time and effort involved in finding a solution.

- *Explain what you see as the benefits of ADR.* Describe the process as an attractive alternative that can avoid bad publicity and potential litigation, as well as providing an opportunity to be seen as a good neighbor to the community.
- *Invite the other party to help design the ADR process.* This letter is an opportunity to show that you will be a good negotiating partner. If you are not yet convinced that ADR is the right choice for your community, you can propose a convening session to help determine whether ADR will work under the circumstances, as discussed above at page 18.
- *Set a deadline for responding.* This makes it harder to ignore your letter. If the date passes and you still have not received a response, find out why it is taking so long. If you cannot uncover a satisfactory reason for the delay, you can send a letter to someone in a higher position of authority, such as the facility's parent company. Or you can try other techniques to persuade the recipient of your letter to respond, like community organizing and media outreach—you might even want to mention these alternatives in your initial letter to encourage a response.
- *CC'ing.* Often, you should indicate in the letter that you are copying (or "cc'ing") other stakeholders or authorities. This may goad the other party into paying attention to your request.

Appendix G includes a sample letter to request ADR that can be customized to fit the particular circumstances in your community.

Government agencies can play a variety of roles in an ADR process involving an environmental justice issue. In some cases, the government can be a community ally and sit at the table to express support for the community's positions. In other situations, a community might end up negotiating *against* a government agency that it believes is acting unreasonably or inadequately enforcing the law.

The government also could influence the course of an ADR process without even being present at the table, by providing valuable resources for researching and preparing for ADR—or perhaps even conducting tests that are essential to understanding particular environmental impacts. Or companies may become more likely to cooperate with the community if they believe that failure to reach an agreement may lead to a government enforcement action. The government may also play a part in implementing whatever agreement the community and the company reach. As you initiate ADR, think about the roles that government agencies (local, state, or federal) may play.

The various approaches to ADR

Generally, there are three main approaches to ADR. They have a few things in common. First, the parties can never be forced into an agreement. Second, any number of parties can participate. Third, these approaches will only work if everybody is invested in the process and committed to negotiating in good faith.

Choosing among ADR approaches

In deciding which type of ADR to propose, there are several factors to consider. First, do you already have—or can you likely establish—a good working relationship with representatives of the other parties? If so, you may want to choose to meet without a neutral or to use an approach that minimizes the role of the neutral. On the other hand, meeting with a neutral can help strengthen communication and level the playing field when your experts cannot attend the meetings. Second, you may also base your decision on which kinds of free ADR services, if any, are available in your local area.

The decision on whether to use a neutral may depend on whether there is funding to hire one. In some cases, the other party may be willing to pay the neutral's fee. Alternatively, U.S. EPA may provide a neutral for the ADR process (see box). The EPA is most likely to provide mediation services if the EPA is a party at the table, which may happen when a dispute involves a federal permit, a federal facility, or the clean-up of a Superfund site on the National Priorities List. Some states offer community dispute centers that provide affordable mediation services.

Choosing a neutral

Any party can nominate individuals to serve as neutrals in the ADR process. Both sides then interview the neutrals under consideration. Finally, every party to the ADR must agree on who will serve as the parties' neutral.

Finding potential neutrals. A good place to start is to ask for recommendations from other community groups in your area who have tried ADR. You can also find a neutral through one of the many independent groups that specialize in dispute resolution, described in the box below. It can be daunting to sort through long "rosters" that list many neutrals who work in an area, but you can ask the

ADR Approaches

Direct negotiation. *Direct negotiation*, or “unassisted negotiation,” means simply sitting down with representatives of the company or government agency with the power to resolve the problem, and trying to come up with a solution without the use of an intermediary. Direct negotiation may be the right option if you think you can develop a productive working relationship with the other parties. After all, if you are well organized and can get what you want through direct negotiation, you might not gain anything by having an outsider at the table. On the other hand, if you try direct negotiation and it does not work, the process does not need to end there—mediators are often brought in when direct negotiations have failed.

Mediation. In *mediation*, a neutral (called the “mediator”) helps parties reach an agreement that is satisfactory to everyone involved. The mediator’s job is to help each party communicate its position clearly and to understand the positions of the other parties. While the mediator’s main role is to ensure a fair process, she or he also may suggest creative solutions. Mediation can be a good option when the parties are unable to sustain a productive dialogue on their own, or when the parties are far apart in terms of what they seek.

If you think a mediated approach might work for your community, you might also want to learn about other, similar forms of ADR in which a neutral helps the parties to communicate. One such option is an *ombudsman*, a government official who receives complaints from members of the public, then investigates the problem and brings people together to talk about solutions. The EPA has ombudsmen who can often help with environmental justice issues (http://www.epa.gov/adr/cprc_adrcontacts.html). Your state government may also have ombudsmen. These ombudsmen do not charge a fee.

In *facilitation*, a neutral (called the “facilitator”) focuses on making the process fair without becoming involved in the issues. For instance, the facilitator will help set ground rules for a conversation, make sure that information is flowing, and keep the conversation on track. Facilitation is appropriate when the dispute is not very emotionally heated, the parties’ positions are not widely divergent, and the parties have some degree of trust in each other.

Non-binding arbitration. In this form of ADR, the neutral (called an “arbitrator”) hears from all parties to the dispute and informs them how he or she thinks the dispute should be resolved. The parties then decide whether they will follow the arbitrator’s plan. Of all the forms of ADR, arbitration is most like litigation, because both sides present evidence to a neutral decision-maker who plays a role like that of a judge in court. Non-binding arbitration is rarely the best option for environmental justice communities because it can be expensive and time-consuming, and parties with greater financial resources tend to have a practical advantage, just as they would in court. Then again, there may be instances where the community’s case is strong and clear, and arbitration may be somewhat more likely than other ADR approaches to result in a satisfactory, uncompromising solution. The fact that a neutral decisionmaker agrees with the community should help encourage the other side to agree to the community’s needs. This is different from court-ordered arbitration because there is no penalty for rejecting the arbitrator’s decision.

organization with a roster to recommend somebody with experience in environmental justice issues. If this does not work, you can narrow the list of neutrals yourself. Simply call or e-mail several neutrals and ask whether they meet your basic requirements (experience with community groups, experience with similar issues, years of experience, etc.).

Interviewing potential neutrals. Once you have compiled a list of neutrals who may be a good fit for your situation, it is time to consult with the other parties to select one from the list. To ease this process, all parties might agree in advance on the key criteria for selecting a neutral.

You must interview any potential neutral, either in person or by phone. Usually, all the parties interview a potential neutral at the same time, but you can also choose to do your interviews independently. If you do conduct interviews together, choose the questions you ask carefully. You do not want a promising neutral to be rejected by another party because he or she gives an answer to one of your questions that sounds great to you but not so great to the other parties. For example, in a situation involving air pollution, avoid asking something like, "So, what do you think of acid rain? Isn't it horrible?"

Remember that everyone must agree on the neutral and each party will be wary of any neutral who seems biased. It is important not to say that your favorite neutral is the only one you are willing to work with, as this will probably encourage the other party to reject your choice.

Alternatively, the other side may nominate potential neutrals. In this case, you still want to interview all of the nominees to decide who you most want to work with. Approach these candidates with an open mind. The fact that the other side nominated them does not necessarily mean they will be biased against your position.

Neutrals have different styles and approaches. Here are some basic questions you may want to ask during the interview:

- *How does this neutral work?* Give the neutral an opportunity to explain his or her process. Keep in mind that the neutral will not be able to predict how your unique ADR process will turn out; everyone is often surprised by what happens along the way.
- *Does the neutral meet with parties separately?* Sometimes, neutrals prefer to meet with the parties separately in order to speak frankly, calm heated emotions, and understand how far apart the sides really are on key points. At other times, neutrals meet with all parties together to encour-

Where can I find a neutral?

U.S. Institute for Environmental Conflict Resolution (ECR) – This independent agency helps resolve environmental disputes involving the federal government. The ECR website provides a roster of environmental conflict resolution practitioners, or neutrals, as well as practitioners who specialize in working with Native American communities. See <http://roster.ecr.gov/Search.aspx> (To search for neutrals with environmental justice experience, click on the box next to "Practitioner-related Type of Case/Issues." When a new menu pops up, click the box next to "Environmental Justice," close the pop-up window, and hit "search").

U.S. EPA – When the issue you are dealing with has a connection to the federal government or federal law, such as having a federal permit or being a National Priority List Superfund Site, the U.S. EPA can connect you with neutrals with experience in environmental justice communities. EPA also has ombudsmen that specialize in various issues, such as pesticides and hazardous waste disposal. http://www.epa.gov/adr/cprc_adrcontacts.html

Community dispute centers – These publicly-funded mediation centers operate in many states. They offer mediation services at little or no cost for the people of that state. Mediations conducted by these centers typically involve interpersonal disputes. One tool for finding a community dispute center is the "program locator" at <http://www.nafcm.org/>.

State and federal courts – Almost all courts maintain rosters of neutrals.

State offices of dispute resolution – Some state governments have offices or agencies that specialize in dispute resolution.

Private mediation firms – Sometimes private firms, such as JAMS, Inc. (jamsadr.com), can connect you with a neutral who is willing to work on a pro bono basis.

age direct, efficient communication. This is called a “joint session.” Most neutrals use some mix of joint and separate sessions, but it is important to understand your neutral’s philosophy on how parties should meet.

- *What does the “agreement to mediate” provide?* An agreement to mediate is an agreement that all of the parties make with a neutral before the negotiations start. It explains what you can expect from your neutral and what your neutral will expect from you. Although each ADR session is unique, most neutrals use a single form that outlines their general approach. If you are working with an ombudsman, a “memorandum of understanding,” or “MOU,” serves a similar purpose.
- *Does the neutral require “mediation statements”?* A mediation statement is a short, written document that describes the history of the dispute and any proposed solutions. Each party writes its own mediation statement.

The neutral should understand environmental justice communities. It is important for you to find a neutral who knows how to handle negotiations between groups that may have very different levels of wealth and political power. While the questions above address issues that will come up in any ADR process, you might also wish to consider:

- If the community’s negotiators must balance their role in ADR with jobs and family responsibilities, can the neutral work with your schedules? Will he or she help communicate your scheduling needs to other parties?
- Does the neutral make you feel comfortable? Can he or she set the right tone for the ADR process? It can be hard to pin down, but the personality of a neutral can make a big difference. The neutral is responsible for making sure that everyone is treated with respect, and that any disrespectful behavior does not derail the ADR process.

Setting the ground rules

Before you actually sit down for negotiations, you will have to sort out the many small details of your ADR process. If you have a neutral, he or she will work with you to make these decisions. Regardless of the type of ADR you are using, the following logistical issues should be covered in advance:

- *Scheduling meetings.* Most negotiators for the community will be volunteers who have to balance ADR with all their other obligations. This can make scheduling a challenge. Be sure to communicate your needs clearly. For ADR to work, the other parties should respect your needs.
- *Where to meet.* Avoid holding all meetings on either party’s “home turf.” On the other hand, it is fine to take turns meeting in the community or at a company or government agency office. Choose private locations where everyone will be comfortable, with access to restrooms, water and vending machines, and the like. Also, there should be access to a separate room where either side’s representatives can step outside of the main room to speak privately. You might be able to find a good—and free—meeting space in a local library or community center.
- *Information exchange.* It may be easier to “hit the ground running” if you and the other parties exchange information before you start negotiating. By sharing what you already know about a problem, you can demonstrate that you and your community’s concerns must be taken seriously. This can also help highlight up front the areas of agreement and disagreement, which saves time during the actual ADR sessions. Additionally, by receiving information from the other side, you can deepen your understanding of the problem and, ideally, do a better job of evaluating potential solutions. If you can trust the other side to provide accurate and complete informa-

tion, this will be more efficient than doing all the research on your own. To start this process, you can ask the other parties if they would like to do an information exchange and request whatever information you think is relevant.

- *Technical data.* It is impossible to have a productive discussion if one side is relying on technical data that the other side does not understand. There are a few different ways to avoid this problem. First, you can agree that all data must be presented in an understandable format. Second, you can have your own expert review the data and make sure the other party's analysis makes sense. If you do not already have experts on your team, you can ask the other party whether it would pay for an independent scientist, or other suitable expert, to consult with you. Your neutral may know about additional resources for finding an affordable expert who will help explain and analyze complex technical data.
- *Publicity.* In the business world, negotiations—and any agreements that result from them—are typically kept secret. This type of confidentiality is often not an option for community disputes, because the public has legitimate concerns and a right to know about what is going on. At the same time, you should be careful about publicly criticizing private statements made by another party during the ADR process, because of the potential that it could interfere with or derail progress in the negotiations. Here are some issues you should address early on:
 - *Talking to the press.* If there is widespread interest in your dispute, how will you keep the press informed or respond to questions from reporters? Sometimes the parties will draft joint press releases; this ensures that everyone agrees on a single message. Another option is for the parties to agree at the end of each negotiation session on how everyone will communicate with the press individually. You may decide to hold closed sessions and wait to see how the process turns out before speaking to reporters. The key is to agree on a system—otherwise, one person's communication with the press could interfere with the ADR process.

It is also important to agree on whether parties will be free to talk about what is happening *outside* the ADR process. Be careful of any agreements not to talk to the press about opposing parties if the community needs to continue drawing attention to ongoing problems, such as an emissions flare-up at a coal plant, that occur while the ADR is taking place.
 - *Getting community buy-in.* Make sure the other parties understand that you cannot accept any final agreement without first consulting with other affected citizens in the broader community.
 - *Corporate or agency hierarchies.* Likewise, make sure you understand what the other party has to do to approve and implement any agreement. For instance, you may negotiate and reach agreement with a factory manager, only to find out he needs the company president's approval to finalize an agreement.
 - *One suggested rule.* One rule sometimes used in ADR settings to reduce tension is that "Outside of a mediation session, nobody can describe what another party said in the negotiations." In other words, with this rule in place, nobody can put words in somebody else's mouth, and each party remains free to talk about its own goals, achievements, and challenges.
- *Communications between meetings.* Sometimes it will be necessary to communicate with members of the other side between meetings in order to follow up on particular questions or to let people know of new developments that may affect the process. You should work out the ground rules for these communications when you first meet with the neutral or at the initial negotiating session. These may address issues like keeping the neutral advised, and establishing a single point of contact for each side so team members are not left out of the loop or

surprised by private communications between other members.

Before the first meeting, you should work out within your own team how to deal with communicating to one another about any conversations, e-mails, or new information that may be received between meetings. You should make sure your team members are advised promptly of information that is communicated by the other side. Communications received by someone other than the designated point of contact should be immediately passed on by that member to your team's designated contact person, in order to keep track of the information and keep the entire group's knowledge up to date.

Obviously, you will want to work with a neutral only if you agree with his or her approach, but do not be afraid to ask the neutral to adjust the usual process to meet your particular needs. You can expect the neutral to be responsive to your reasonable requests to modify or improve specific parts of his or her plan. Try to anticipate your needs as much as possible before the ADR process begins, because other parties may look skeptically on requests for changes if they are made after the process has begun.

The Community Gets a Seat at the Table in Maple Plains

The steering committee sent a letter, signed by all its members, to the manager of the Belvedere Steel Mill, describing their research, identifying the community's concerns, and mentioning the environmental laws they believed Belvedere was violating. In the letter they mentioned they would be willing to consider attempting ADR rather than other approaches the community might take. They also mentioned that if they did not receive a response within two weeks, several steering committee members would come to Belvedere's office and wait there until someone spoke to them.

Less than a week after they posted the letter, a Belvedere manager called Mary. He denied that the company had violated any laws or regulations, but suggested a conversation. The manager said he would be willing to meet with a small group of community members.

The steering committee members let the larger group know that the company had agreed to a meeting, and decided that Mary and Ken would attend and report back on the company's response. Mary and Ken prepared carefully for the meeting by reviewing all the information they had gathered. They agreed that they would try to get the company to enter into an ADR process as a way of addressing the community's concerns.

The community's research paid off: the information Mary and Ken presented at the meeting convinced Belvedere to take the community seriously. After the meeting, Ken and Mary reported that the company had agreed to consider entering into mediation, saying it might help with communication. One of the steering committee members knew a workers' rights activist who had some good experiences with ADR between workers and employers, so they asked her to recommend a few neutrals. Because all parties needed to agree on the neutral, Mary, Ken, and a Belvedere manager interviewed potential mediators and agreed to use the one with the most experience in Maple Plains. The interviews also gave Mary and Ken a better understanding of what to expect from the ADR process.

Mary, Ken, and Belvedere's two negotiators then met with their mediator to set ground rules. Everybody participated in this conversation, and they agreed that the opposing sides would show respect to each other throughout negotiations by listening and not interrupting. They also agreed not to speak to the media about what the other side said during negotiations. They chose the Maple Plains Community Center as their meeting place because it was available in the evenings, after the work day was over.

Part 3: Crafting your negotiation strategy

Now we turn to the fundamental principles of negotiation strategy. You should be aware of these principles as you develop your own strategy and know that the other party will also be using them, particularly if it is a private company with the resources to hire professional negotiators.

Know your priorities and options

It is not enough to enter ADR with only a general idea of what the problem is or what you want. Since you will probably not obtain everything you seek in a negotiation, the community should be prepared for some give-and-take. Be sure to think through these issues carefully with your community:

- *What are your main interests?* You might rank them in order of priority.
- *Are there any issues that are non-negotiable? Is everything else on the table?* The community must agree as to exactly what is on the table.
- *What is a desirable range of outcomes?* The ADR outcomes that make sense for you will depend on a detailed analysis of your alternatives. This alternatives analysis includes:
 - The Best Alternative to a Negotiated Agreement (BATNA)—write down all of the alternative courses of action you might pursue if ADR fails. Then, decide which one is best; this course of action is your BATNA. This decision may involve several complicating factors. For instance, some people in a community may argue that a lawsuit is the best alternative because there is a chance that it might result in a shutdown of the polluting facility. Others could respond that the chance of winning big in a lawsuit is very small and that the process is expensive and time-consuming, so the best alternative is another organizing strategy that is more likely to result in at least some change.
 - The Worst Alternative to a Negotiated Agreement (WATNA)—turn back to your list of alternative courses of action. The result at the bottom of the list, the worst thing that would happen without ADR, is your WATNA.
 - Which of the alternative scenarios is most likely? It is possible that the most likely alternative is neither the best nor the worst possible outcome.
 - “Reservation point.” This is the bare minimum that you will accept in an agreement. If you cannot get it, you will walk away. If you are certain you can achieve your BATNA, you probably will not accept an agreement that is significantly worse than that. However, the possibility that you might wind up with another alternative, like your WATNA, will influence your reservation point.
- *What “concessions” can the negotiating team make?* A “concession” is something that one side gives up in order to meet another party’s demands. For ADR to be successful, each party must make one or more concessions. Write down a list of possible concessions. Be creative. For example, a community group could “concede” its right to file a lawsuit in exchange for obtaining an agreement from the company to perform certain actions, even if the group had no actual ability or intention of filing a legal action.
- *Is the other party likely to want something that you may be willing to give at little or no cost?* You might be able to obtain a large concession from an opposing party by giving up something that is important to them, but you believe is of minor interest to your group. Using the example

above, giving up the ability to sue, if that option is not viable for you, may be a small concession for which a company would be willing to give up a great deal in return.

- *Are trade-offs possible?* Think about specific trades that might appeal to everyone.

Research the other party

Researching the other party or parties is an essential part of developing your negotiation strategy. In general, you want to know everything you can about the individuals, government agencies, and companies with whom you are negotiating. Here are some tips for identifying the most important information.

You are more likely to be successful in achieving your goals if you can identify the interests that motivate the other party. Companies or

organizations that agree to enter into ADR with community groups generally have some goals that you can use to inform both your negotiating strategies and the content of your proposals:

- They want to save time. For companies, time is money. If a dispute can be resolved rapidly, the total costs can be determined and factored into the company's budgets and financial targets. If a dispute drags on, the uncertainty and length of time can cost the company money—not only in terms of staff time and attention, but possibly in terms of interest on money borrowed to carry out projects.
- They want to maintain a positive public image. Companies and other organizations, including government agencies, may have an investment in a public brand or image that they want to maintain. Being seen as responsive, "green," community-minded, or socially responsible may represent part of the party's value, and negative publicity may hurt not only its reputation but also its actual investment in brand identity.
- They may have differing goals at different management levels. Sometimes a regional or local part of a larger organization may have different values and practices than the parent organization. Determine whether you should be dealing locally or should involve someone from headquarters. It may be the case that a local operation is being managed in a way that is not consistent with the company's overall policies and procedures. If corporate environmental health and safety policies are not being followed at a particular facility, involving corporate management may be an easy solution.
- They want finality. Often the primary concern will be to resolve a dispute once and to not have it popping up again and again with different concerns, different people, and different requests or demands. Recognizing this desire for finality, a company or organization may be willing to give more in a settlement if it can be certain that the dispute will not re-start later.



What about the *other party's* BATNA, WATNA, and reservation point? Although it is impossible for you to know exactly what the other party intends to achieve through ADR and what its motivations are, you should be able to make a good prediction based on everything you have learned in your preparations. Write a list of each of the other party's needs and interests, and rank the importance of each one. Then try to put yourself in their position and do the same exercises described above to determine their BATNA, WATNA, and reservation point. Does the community have leverage over the other party that can help shape how that party views its alternatives to ADR?

Communication style and personality. The flow, and sometimes even the success, of a negotiation can depend in part on the personality of the people involved. Learn everything you can about the people who will be representing the other parties. Hopefully, you can use this knowledge both to improve your professional relationship with the other people at the table and to predict how they will behave.

A great way to study someone's personality is to see him or her in action. If a representative for one of the other parties is scheduled to speak in a public setting, such as a government hearing or a meeting, prior to your ADR process, you should ask a community member to attend and observe the person's style and temperament.

Research the professional role of each person you are meeting in the ADR process. A person's responsibilities in an organization may shape his point of view and priorities. For example, the public relations director may look at issues with a different mindset than a company's financial officer.

Decisionmaking authority. Are you negotiating with a person who possesses the "authority" to strike a deal with you on behalf of the person or company causing the problem? If you do not know, you should ask this question directly. If you are not speaking to a real decisionmaker, avoid misunderstandings by asking several important questions: Whose approval is necessary? Can someone higher in the "approval chain" participate? How long will approval take?

What's really possible?

Once you have thought about the kinds of agreements that might be acceptable to both you and the other side, you can start predicting what an actual agreement might look like. Where is there common ground? The answer to that question will lead you to the *zone of possible agreement*—the solutions that would be acceptable to everyone at the table. In most negotiations, there is more than one solution that would satisfy everyone. Some of the possible outcomes will be better for you than others. Understanding the range of possibilities will help you reach more of your goals.

Avoid unrealistic expectations. Many communities understandably seek large-scale change—like driving the offending facility out of their neighborhood. Communities should understand from the start that they probably will not be able to achieve these kinds of goals through ADR. Thinking carefully about options within the zone of possible agreement can help you focus on realistic results.

Practice

You can use role-playing exercises to practice your negotiating skills. Have somebody on your team study the other parties' negotiators and positions. Then practice negotiating against your teammate. Even though you cannot predict exactly how the real negotiation will play out, role playing can help you anticipate what the other parties will say, plan out your responses, and become a more comfortable and effective negotiator.

The Maple Plains Community Develops a Negotiation Strategy

To prepare for the mediation, the community members met several times to discuss solutions that would be helpful to them. The first suggestion was to get rid of the drums altogether and to place them in another site that was not in a residential community. Someone pointed out that there was a waiting list of convalescent home residents waiting for garden plots, and that it would be ideal to be able to expand the garden into the drum storage area if it could be thoroughly cleaned up. Community members lit up with enthusiasm at this suggestion, agreeing that a garden would truly offer a benefit.

Next, they discussed other outcomes that would be acceptable, short of meeting all the community's demands. In the end, the community agreed it would be acceptable for Belvedere to find an alternative site even if the convalescent home was not able to obtain access to the space. The community also agreed on its "reservation point." As a worst-case scenario, the community agreed they would settle for the company repairing the leaking barrels and upgrading the storage site until they found a long-term strategy for relocating them. But under no circumstances would the community agree to Belvedere simply repairing the leaking barrels without finding an appropriate long-term solution for disposing of their facility's by-products.

The community did not want to accept any agreement that was worse than their BATNA (the best alternative to a negotiated agreement). They had several options they could pursue if they left the mediation without a deal—for instance, they could demonstrate at the plant, undertake a media campaign, file a lawsuit, or pressure local and state governments to take enforcement action that might lead to changes at the site.

In their preparations, the community gathered information from the internet about Fred Robertson, the manager who would be Belvedere's lead negotiator. They also asked about his reputation among workers at the plant. The steering committee heard a rumor that Fred wanted to be the next company president, and so they hoped that he would have a particular interest in reaching an agreement. Mary called Fred to find out whether he would have authority to make a final decision, and discovered that any agreement would require the regional manager's approval. They concluded their strategy would have to take Belvedere's national interest into account, not just that of the local Maple Plains mill. The community brainstormed plausible opening positions for Belvedere, and the responses they predicted Belvedere would offer to the community's complaints.

Mary and Ken volunteered to represent the community at the negotiating table, and the rest of the steering committee agreed that those two could legitimately represent their concerns because they had been the most active in community outreach. Mary and Ken practiced negotiating by going through a role play against one of the other steering committee members, who had become acquainted with Fred's style by watching him speak at city council meetings.

Using experts

Another part of your strategy will be figuring out how you can make the best use of any experts supporting your team. Many people want to have their experts with them at the bargaining table whenever they discuss a technical issue. If you take this approach with an expert, you must be confident enough in the person to be sure that he or she will not take over the discussions, or say something that is inconsistent with what your community is trying to accomplish. Moreover, the expert's time may be limited, so it may make sense to invite the expert only at critical points in the negotiation.

If you do not have an expert with you during negotiations, think about getting expert input at certain crucial stages. For instance, you can build time into the ADR process to consult with an expert outside of the negotiating room about proposals from the other side.

There are a few roles that lawyers can play in ADR. A lawyer can help determine whether a lawsuit or some other legal process is a good alternative to ADR. Even if you have not retained a lawyer to help you with your environmental problem, you might consider whether a lawyer can help when it comes time to write an agreement or review a draft agreement that the other side has proposed. Lawyers can look for problems with the wording of particular provisions that may allow for differing interpretations. They can also ensure that the agreement is an "enforceable" document and contains language that forces each side to stick to agreed-upon promises. If possible, have a lawyer review a draft of your agreement before you sign it. Although it can be difficult to find affordable legal assistance, you might be able to find a lawyer who is willing to volunteer for this limited role.

Even if there is a lawyer on your steering committee, you may not want to include her or him at the negotiating table. Some groups find that the presence of a lawyer at the table makes it difficult to speak openly and collaborate.

Part 4: Working through the negotiation process

By the time you sit down at the negotiating table, your thorough research and planning should already have improved your chances of success. Now you can make the most of your hard work by being an effective negotiator for your community.

Presenting community concerns in an “opening statement”

Negotiation often begins with each party making an opening statement. This is your first opportunity to explain your view of the issues and your goals for the ADR. The entire steering committee should be involved with drafting the opening statement—either through a consultation process or a group writing effort.

Who should speak for your group? Pick a spokesperson who can speak clearly, calmly and concisely. The spokesperson may be the person who knows the subject best, but only if he or she is a good public speaker. Otherwise, you are better off choosing a strong speaker, even if that person is not the community “expert” on the issue.

What is the best way to educate the neutral and other parties? You can use many tools to communicate the nature of the problem, its causes, its effects on the community, and possible solutions. For instance, you can show photos, charts, or videos to illustrate the problem. Visual aids will make your story much more powerful and real. In some cases, a tour of the community might be the best way to convey to the other party how serious and important the issues are.

Practice your presentation. Here are a few techniques to focus on:

- Keep your presentation short and crisp, with no rambling. Write down your remarks in advance, and cut out anything that does not support your main arguments.
- Make eye contact with people at the table when you are speaking.
- Focus on the decisionmakers for the other parties.
- Keep in check any frustration or anger to the extent possible, regardless of how justified.

Mary Prepares Maple Plains' Opening Statement

The community decided Mary should deliver their opening statement because of her knowledge of the problem, her interpersonal skills and even temper, and the fact that she had the trust of all community members. Mary and the steering committee wrote a presentation with a concise description of the problems facing Maple Plains, using specific dates of the community's observations and scientific information they had collected. She also mentioned some environmental laws that might be relevant. To give these points more force, Mary decided to use the same chart she presented at the community meeting and to display an enlarged photo that a resident had taken of the leaking drums. For several days leading up to the negotiations, Mary's friends and family helped her practice her opening remarks.

Conversations with the other side

Throughout the ADR process, you will interact with the other party's negotiators in formal negotiating sessions (at the table) and in more informal settings (at the water cooler in between sessions). This section is a guide to making the most of those conversations.

At all times, build a professional relationship.

Your informal conversations with the other side's negotiators present an important opportunity to learn valuable information, and also to speak about your background and long-term commitment to the community. If you get to know each other, you can improve the tone of the whole process. Although the other party's negotiators may not be your friends, establishing a healthy professional relationship can help build trust, an essential part of any successful ADR.



During the negotiation, focus on listening skills. Ask open-ended questions that do not have “yes or no” answers. Invite full explanations with questions like “What happened next?”

Another important skill is empathy. Valuable information can be elicited by simply showing someone that you understand where he or she is coming from.

Finally, summarize your understanding of the conversation at the end of each session. Write down your summary. This avoids misunderstandings and makes it harder for the other team to change its mind later in the process.

Keep some conversations private. Throughout ADR, occasions may arise when you need to consult privately with members of your team. Do not hesitate to request to talk separately, or “caucus,” outside of the meeting room. Caucusing is useful whenever you must:

- Decide your next course of action
- Share sensitive information
- Regroup after a surprise
- Let tempers cool, or

- Get opinions and information from experts that are not present.

Exchanging offers

Initial positions. Unless you have extraordinary information and reason to be confident, it will generally not make sense for you to open an ADR session with a specific proposal for ending the dispute. Instead, use your initial position to signal: 1) that you are reasonable and 2) that you need serious change. So, for example, you might begin a negotiation by saying something like this:

There are many in our community who believe that the answer here is for the company simply to shut down the plant. It has fouled our community with its air pollution and traffic for the past 15 years. We have talked seriously about what we need out of these negotiations, however, and we are not here to demand the closure of the facility. We understand that you could not meet that demand. Instead, we are here to tell you that the most important issues for us are stopping the air pollution, decreasing traffic through our streets, and increasing the facility's hiring from within the community.

Offers and counter-offers. Before you reach a final agreement, you might have to exchange several offers with the other side. As a practical matter, offers are usually communicated by the neutral, when there is one. The following tips can help you get the most out of this process:

- *Use the neutral strategically.* Use the neutral to help the other side understand and appreciate the benefits of your proposals, as well as the risks and downside of continued and prolonged disagreement. If you ever say something to the neutral that you do not want repeated to the other side, clearly state to the neutral that you are speaking "off the record."
- *Be creative.* Continue to generate options throughout the process, and encourage the other side to do the same.
- *Start with the easier issues.* Reaching agreement on a few smaller or easier issues can generate

Provisions to Consider in Your Negotiated Agreement

1. **Community access to information:** Ensure that the other party makes information about its operations and decisions available in a place and in a way that is accessible to members of the community on an ongoing basis.
2. **Right to inspect the facility:** Depending on its content, an inspection clause may permit community members to inspect a plant and be accompanied by an expert and a plant worker of the community's choice.
3. **Accident preparedness:** Involve the community in planning for accidents and obtain specific commitments that may go beyond regulatory requirements.
4. **Pollution prevention:** A facility may commit to reducing its use of toxics or its toxic waste and emissions over a prescribed period of time, sometimes with the assistance of community-designated specialists.
5. **Jobs:** The company may commit to recruiting and hiring local people for new job openings.
6. **Local economic needs:** The company may commit to establishing a special community benefits fund for specific purposes, with discretionary spending to be determined and overseen by the affected stakeholders.

Adapted from Sanford Lewis and Diane Henkels, *Good Neighbor Agreements: A Tool For Environmental and Social Justice, Social Justice*, Volume 23, Number 4 (1996), available at: <http://www.cpn.org/topics/environment/goodneighbor.html>

momentum for the process and build overall trust among the parties.

- *Do not give anything away without getting something in return.* Even if a particular concession is easy for you to make, it should be made strategically. Perhaps you can make it seem more valuable by forcing the other side to push for it. Alternatively, giving a token concession may help establish good will that can be used to obtain something more important.
- *Only make commitments you are absolutely sure about.* One strategy for avoiding premature commitments is to frame the commitment in the form of a question. For instance, instead of saying “I’ll do X if you do Y,” which sounds like a definite commitment, you can ask “If I do X, will you do Y?” to probe potential scenarios.
- *Borrow from objective groups.* It is usually easiest to convince other parties to meet standards that have been endorsed by reputable, credible third-party entities, such as the ISO (International Organization for Standardization) standards for industrial activities. If you have ever relied on the “bluebook” estimate of the fair price for a used car, you have already used this strategy.

Maple Plains Negotiates

After short welcoming remarks from the mediator, each side presented their prepared statements. Mary shared details about her community’s observations of the barrels, explained why they posed a physical and psychological threat, and summarized the kind of changes the community wanted.

In his opening statement, Fred asserted that Belvedere had a strong history of compliance with all regulations. He said that the company had begun using the neighborhood site for temporary drum storage at various times because space was limited at the steel plant; that the waste was non-hazardous and thus not regulated by EPA; and that the company was seeking a long-term solution that would take more time to work out. He noted that Belvedere had held a city permit for industrial use of the site, but that the permit had through unfortunate oversight been allowed to lapse. He said that the site was being managed the same way as under the previous permit.

Fred said the company was not responsible for any past leakage from barrels. He suggested “letting bygones be bygones” and that the community stop “tarnishing Belvedere’s reputation.” Fred pointed out that changing Belvedere’s disposal practices would involve significant transportation and labor costs. He added that they were in the process of renewing their permit for the next year, but seemed confident that the permit would be approved and they would not have to move the storage site.

During this first session, the mediator helped the two parties develop lists showing the ways in which the problem affected them and outlining how they might be willing to cooperate. At the end of the half-day session, the parties agreed to consult with the rest of their groups and return in two weeks with more concrete positions.

Two weeks later, Mary and Fred returned to the community center to meet with the mediator and Belvedere’s team for the next round. This time, Fred presented the option of using the site only as a short-term transfer station. He explained that transfer stations do not pose a serious health risk because barrels do not stay on site long enough to decompose. He said he thought this change would satisfy the community, and that the groups that had participated in the steering committee should all agree not to sue Belvedere over its activities or oppose its permit application.

This proposal raised many concerns for Mary and the community members: human health, safety, monitoring, leakage, groundwater contamination, and diesel truck traffic in the neighborhood. Mary felt frustrated that Fred seemed determined to “win,” but she focused on finding ways to make a transfer station meet the community’s concerns. The neutral encouraged the parties to go home and think about various scenarios that might be acceptable for both the community and Belvedere.

End game

What issues are likely to come up as you come close to reaching a deal?

Deciding when you should accept an offer. Consider the following:

- Compare proposed agreements with your BATNA, not with your initial offer. You may not get everything you want out of ADR, but an agreement might make sense if it will leave you better off than your likely alternatives.
- Ask a lawyer to review a proposed agreement.
- Any agreement should include a plan to monitor follow-through by the parties. Follow the recommendations in the section on “making your agreement stick” (below).

What if you can’t agree on everything? Try to agree on as many parts of the dispute as possible. If there are unresolved issues, leave the door open for future discussions. An agreement on some, but not all, key issues may still be in the community’s best interest.

Community buy-in. As a representative of the community, you will only be able to enter into an agreement that the community supports. Before accepting any agreement, you must communicate with the broader community and make sure there is a general consensus in favor of the proposed agreement.

If the community is divided, the members of the negotiating team must attempt to address the divisions. This will involve listening carefully to those who are upset by the direction of the negotiation, and explaining clearly the potential gains for the community. By listening carefully, you may be able to think of ways to address the concerns of those who are not satisfied with the outcome thus far. Members of the negotiating team should be ready to describe in detail what the community has to lose if it insists on “the best” at the expense of “the good.”

Making your agreement stick

This section discusses precautions you can take to make sure that your agreement translates into real action.

Monitoring plans. Simply put, your agreement should outline the steps you will take to verify that the other side lives up to its promises, and should clearly state conditions to ensure that it does. Likewise, the other side may seek assurances that you will live up to any promises that you make. For example, a factory manager who agrees to reduce the amount of toxic pollution that comes out of a smokestack may agree to have an independent expert test the smokestack a certain number of times each year. Of course, the details of your monitoring plans will depend on your situation. The key features of a successful monitoring plan are:

- *A timeline that clearly defines and includes dates for every essential step.* Ideally, you would create a calendar with details about everything that is going to happen under your agreement. In reality, people often enter into an agreement without knowing exactly how some parts of it will be implemented. For example, it is reasonable for a company to ask for time for its managers or

The Negotiating Team Reports to the Maple Plains Community

The weekend after each negotiation session, Mary invited community members and the steering committee to her house. They asked her about the negotiation, and talked about their impressions of Fred and Belvedere's positions. The community agreed that the site absolutely could not become a permanent solution for barrel management. There was some disagreement within the community. Some felt that the barrels should not be there at all, but others felt they were more likely to be able to reach an agreement if their position was flexible.

They talked late into the night about potential scenarios that might be achievable. Ken felt that it was very important that the barrels not leak, and he suggested that an independent expert be recruited to monitor them periodically. Another person pointed out that by setting a limit on the number of barrels, they would be able to limit the truck traffic in the neighborhood, as well as reduce the potential leakage. A few community members were angry at the direction of the negotiations, but felt that some agreement would be better than none. Others felt that as long as the company cleaned up any existing contamination and prevented future contamination, they would be satisfied.

engineers to work out certain details, as long as you specify how long they will have to tackle any remaining problems and what the consequences will be if they fail to do so.

- *Who is responsible for monitoring?* This will be a less difficult issue when the community can monitor follow-through on its own. In many cases, however, monitoring will be a technical activity that the community cannot successfully carry out by itself. In this type of situation, the community may need to find an independent expert who can perform tests and report back. If your community does not have the funds to pay for independent testing, you can ask the other side to pay these costs. A willingness to pay for certain expenses may be part of the bargain that you strike with the other side.
- *Objective standards.* Without clear standards, you might wind up disagreeing later about whether the agreement is being followed in good faith. Clear standards might mean that specific numbers are attached to the promises in an agreement, like a "parts-per-million" limit on a toxic chemical in a river or a specific monetary formula for payments to the community. The clearer and more specific you can make the standards that both sides agree to, the easier it will be to monitor everyone's performance under the agreement.
- *Contingency plans.* Are there foreseeable events that may arise that would make implementation of the agreement more difficult? If so, you should plan for an appropriate response and include a "contingency plan" in the written agreement.
- *Financial assurance.* Try to include provisions for financial assurance in your final agreement wherever the other party has future tasks to perform and obligations to carry out. You want to be sure that money has been set aside to address the contingencies in the agreement that need to be guaranteed. While financial assurance is most often obtained under regulatory programs (such as programs for decommissioning of waste facilities, or reclamation of mine sites or oil and gas sites), you may be able to include financial assurances in an ADR agreement. Financial assurances may take the form of a:
 - Bond issued by a bonding company
 - Letter of credit issued by a bank or financial services company

- Escrow account established by the company

You will want to establish conditions under which the financial assurance will be applied, such as to clean up a spill, provide replacement water supplies, or guarantee completion of construction or remediation. The agreement should also specify when the financial assurances may be ended upon satisfactory completion of the tasks and commitments.

What if another party wants to change something later? When parties enter into a long-term agreement, it is common for unforeseen events to make it difficult for one of the parties to fully keep its promises. So, you must include a system for dealing with unforeseen events in any long-term agreement. That way, you can modify the agreement if necessary, instead of starting over at square one. Typically, parties to a written agreement will include a provision stating that any modifications to the deal must be made in writing and signed by both sides. In general, it is also a good idea to meet periodically with the other parties to maintain your relationship.

Reaching Agreement

Several more rounds of negotiations passed, and the two parties finally hammered out an arrangement that satisfied everyone at the table. Under the proposed agreement, Belvedere would pay an independent expert to evaluate whether leaky barrels had contaminated soil or groundwater at the site or the convalescent home. If any cleanup was required, they agreed they would pay for it. The site would be used as a transfer station for up to two years, but to ensure that there would be no leakage, the independent expert would re-inspect the site four times each year. Belvedere would immediately lose its rights to use the site as a transfer station if levels of chemicals above EPA standards were ever found in the environment.

Further, the parties agreed on new rules for how the transfer station would operate. No barrel could be left at the site for longer than one week; additionally, all barrels would be marked with large, clear numbers so the community could monitor their arrival and removal. They agreed to limit the hours and frequency of truck traffic.

Belvedere agreed to apply for a city permit that would expire at the end of the year, and be renewable for just one year. Additionally, Belvedere and the community agreed to meet every six months—with a third-party neutral—to make sure all parties remained satisfied with the arrangement. Both parties reviewed and agreed upon a document that explicitly outlined all of the points of agreement. Then each negotiating team went back to their group to seek consensus on the agreement.

Mary hosted another community meeting to discuss the proposed deal with Belvedere. The community agreed that the negotiated arrangement would make them better off than their other available options. Belvedere's headquarters also agreed, and a final meeting was set.

With the community's support, Mary and Ken signed the agreement. The Maple Plains community congratulated Mary, the steering committee, and all of the community members for their work. The negotiation teams agreed to continue meeting—though less frequently—to monitor implementation of the plan and to discuss any concerns that arose.

Conclusion

Although the ADR process can rarely be expected to obtain an ideal solution to a community's environmental problems, it can provide a powerful, collaborative tool for working with companies, government agencies, and other groups to find areas of mutual agreement on how to improve a situation. Even if a community ends the ADR process before reaching an agreement, the research and relationship-building that goes into preparing for ADR can enhance the community's effectiveness in other organizing and advocacy efforts.



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Appendix A

Databases Established for Environmental Laws

EPA's environmental justice data

Envirofacts. EPA's Envirofacts website (<http://www.epa.gov/enviro/>) is a good first stop in your online research. It compiles data from several databases. With a single search, you can find information about the following kinds of sites in your area:

- contaminated sites;
- facilities with air pollution permits under the Clean Air Act;
- facilities with water pollution permits under the Clean Water Act;
- facilities where leaks of toxic substances have occurred;
- facilities that are permitted to use toxic substances under the Toxic Substances Control Act; and
- facilities with permits to use radioactive substances.

The website allows you to access any recent reports on these facilities. The EnviroMapper feature allows you to generate a map of regulated sites. <http://www.epa.gov/emefdata/em4ef.home>

In addition, Envirofacts provides a portal into many of the databases listed under "specific issues," below.

EJView. EJView is the primary tool for creating maps that show environmental justice issues. It can display in a single map information about permitted facilities, demographics, health, air quality, and more. These maps are both research tools and striking visual images that can help educate others. <http://epamap14.epa.gov/ejmap/entry.html>

Enforcement and Compliance History Online (ECHO). EPA's ECHO database (<http://www.epa-echo.gov/echo/>) can help you figure out whether the facilities in your neighborhood are following the law. It provides information on enforcement actions taken by state or federal officials against the facility.

Window to My Environment. This EPA site provides a snapshot of environmental quality and public health at any location in the United States. <http://www.epa.gov/myenvironment/>

EPA EJ Listserv. This listserv distributes information about funding opportunities and community outreach calls. https://lists.epa.gov/read/all_forums/subscribe?name=epa-ej

Specific issues regulated by environmental laws

The following web resources track EPA's implementation of particular environmental laws. For more information about the relevant laws, consult the supplement to this handbook, *Environmental Laws and Alternative Dispute Resolution: Tools for Environmental Justice*.

Water. EPA, in cooperation with states and other federal agencies, maintains an Index of Watershed Indicators site (also known as “Surf Your Watershed”), which provides detailed information about local watersheds around the country. Information about specific watersheds can be identified by clicking on a series of increasingly detailed maps, and the site includes a wide range of data and other information about watershed health and environmental threats. You can find information on which waters are impaired and undergoing restoration efforts; the identity and location of facilities that release toxic chemicals, and what they release; the identity and location of Superfund sites, hazardous waste sites, community water sources, and permitted sources of air and water pollution; and the identity of other local citizen groups.

- Web resource: <http://water.epa.gov/type/watersheds/index.cfm>
- Relevant law: Clean Water Act (CWA)

Air. EPA has several different web resources that provide information related to the Clean Air Act (CAA).

- The first important web resource is EPA’s AirExplorer website, which provides information about the air quality in different cities and towns. You can see the data in a variety of ways, including maps and graphs. <http://www.epa.gov/airexplorer/>
- AirCompare is an easy-to-use tool that can compare the air quality in neighboring counties. <http://www.epa.gov/aircompare/>
- You can find information about the sources of air pollution in a particular state or county using the mapping features at <http://www.epa.gov/air/emissions/where.htm>
- Finally, EPA maintains an air toxics clearinghouse that maintains technical information on control technologies, risk assessments, monitoring and modeling, and emissions measurement techniques. This Technology Transfer Network Air Toxics site may be useful for communities that are searching for a technological solution to air quality problems. <http://www.epa.gov/ttn/atw>

Contaminated sites. EPA has multiple resources you can use to learn about contaminated sites in your community. First, you can locate contaminated sites using the “Cleanups in My Community” tool.

- Web resource: <http://iaspub.epa.gov/apex/cimc/f?p=255:63:4062928098409071>
- Relevant laws: Superfund (CERCLA), RCRA, and the EPA brownfields program

If you are interested in a particular Superfund site, you can use EPA’s CERCLIS database to learn about the site’s history and any cleanup activities.

- Web resource: <http://www.epa.gov/superfund/sites/cursites/>
- Relevant laws: Superfund (CERCLA)

Hazardous Waste. Envirofacts’ portal into the RCRAInfo database provides information about hazardous waste facilities.

- Web resource: <http://www.epa.gov/enviro/facts/rcrainfo/search.html>
- Relevant laws: Resource Conservation and Recovery Act (RCRA)

Pesticides. EPA, together with the Department of Agriculture, maintains a database containing annual

reports on agricultural and non-agricultural pesticide use.

- Web resource: <http://www.ams.usda.gov/science/pdp/index.htm>
- Relevant law: Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Food, Drug, and Cosmetic Act (FFDCA)

Drinking water. EPA maintains a national database of the occurrence of contaminants in public drinking water systems, whether or not they are regulated. This information could be used to determine whether contaminants found in your drinking water supply are unique to your community or more commonly found.

- Web resource: <http://www.epa.gov/enviro/facts/sdwis/>
- Relevant law: Safe Drinking Water Act (SDWA)

Permitted use of toxic chemicals. The Toxic Substances Control Act database compiles information on potentially harmful chemicals and the facilities that are permitted to use them.

- Web resource: http://www.epa.gov/enviro/facts/tsca/tsca_search.html
- Relevant law: Toxic Substances Control Act (TSCA)

Releases of toxic chemicals. The Toxics Release Inventory (TRI) contains data submitted to EPA annually about a facility's releases of toxic chemicals into the environment. This database is an excellent source of information about chemicals that are present in your community, and may provide an approximation of cumulative exposures. The online database TRI Explorer displays information by facility, chemical, area, industry, and trend.

- Web resource: <http://www.epa.gov/triexplorer>
- Relevant law: Emergency Planning and Community Right-to-Know Act (EPCRA).

Radiation. Envirofacts' portal into the RADINFO database provides information about facilities that use radioactive materials.

- Web resource: <http://www.epa.gov/enviro/facts/radinfo/search.html>

Environmental impact statements. Federal agencies must write an "environmental impact statement" (EIS) before they can approve projects with potentially significant impacts. An EIS contains detailed analysis of the environmental and public health risks of a proposed project. The EPA maintains a database of environmental impact statements.

- Web resource: <http://epa.gov/oecaerth/nepa/eisdata.html>
- Relevant law: National Environmental Policy Act (NEPA)

Other government resources

The following resources may be important for researching environmental justice in your community, although they are not based on federal environmental laws.

Health. The main source of health information within the federal government is the Centers for

Disease Control and Prevention (CDC). The agency has compiled a variety of health statistics at <http://www.cdc.gov/DataStatistics/>. Within the CDC, a specialized agency studies the health consequences of contaminated “Superfund” sites. <http://www.atsdr.cdc.gov/>

Local health resources. Much of the most important data about community health is not available in a national online database. For local health information, contact your county health department. Contact the health agencies in neighboring counties to see how the health statistics in your county compare to the others. If the problems in your community involve chemicals that delay children’s development, school board statistics will also be relevant.

Workplace health and safety. The Occupational Safety & Health Administration (OSHA) compiles statistics on the health and safety records of specific employers. The results of OSHA’s safety inspections are also public. Finally, OSHA’s website links to the industry-wide safety data collected by the Bureau of Labor Statistics. <http://www.osha.gov/oshstats/>

Chemicals at your workplace. Workers have the right to know about potentially dangerous chemicals that they are exposed to at their workplace. Most often, employers fulfill their legal duties by making a Material Safety Data Sheet (MSDS) available for each chemical. An MSDS explains a chemical’s physical properties, hazards, safe handling, cleanup procedures, and first aid. Any employee can ask his employer for a copy of an MSDS for the workplace.

Transportation. The federal agency responsible for compiling statistics on transit is the Bureau of Transportation Statistics. <http://www.transtats.bts.gov/>

Financial disclosures. Publicly traded companies must provide a great deal of information to the Securities and Exchange Commission (SEC) in annual reports and other documents. Companies must disclose “contingent liabilities,” which are financial liabilities that the company will only have to pay if some event occurs in the future. The costs of potential environmental justice issues may be contingent liabilities. The SEC has made all company reports available through its EDGAR database. <http://www.sec.gov/edgar.shtml>

Non-government resources

The following websites sort government data and present it in a user-friendly format:

- www.rtknet.org: Helps users access and analyze data on toxic pollution, hazardous wastes, and more.
- www.scorecard.org: One useful feature allows you to instantly access a wide range of data on the environment in your zip code.

Appendix B

How to Make a Freedom of Information Act Request

United States Environmental Protection Agency
Based on EPA/100-F-97-002 October 1997.
Content Updated March 2003

The Freedom of Information Act (FOIA) allows you to obtain information from various agencies of the federal government, including the Environmental Protection Agency (EPA). The purpose of this brochure is to provide you with a brief description of your rights and the manner in which the EPA will respond to your requests under the FOIA.

The information contained in this brochure is not exhaustive or definitive. Specific requests will be governed by the provisions of the FOIA, set forth in 5 U.S.C. 552, and in the Agency's regulations implementing the Act, set forth in 40 CFR Part 2. Copies of these regulations are available at the Agency's Freedom of Information Office (Headquarters) in Washington, DC and at its regional offices.

Questions may be directed to the:

National Freedom of Information Operations Officer, 1200 Pennsylvania Avenue, N.W. (2822T, Washington, DC 20460; telephone (202) 566-1667. Also, questions may be directed to the regional office within your geographical jurisdiction (addresses listed under REGIONAL OFFICES).

INFORMATION YOU CAN OBTAIN

In general, you can inspect or obtain copies of publicly available material maintained by the EPA through public reading facilities in the Agency's headquarters and regional offices. Also, you may electronically access information by means of the Internet via the Agency's Web site at: <http://www.epa.gov>. All agency records must be made available to the public under the FOIA, except for records which are:

1. Properly classified as secret in the interest of national defense or foreign policy;
2. Related solely to internal personnel rules and practices;
3. Specifically made confidential by other statutes;
4. Trade secrets and commercial or financial information which is obtained from a person and is privileged or confidential;
5. Inter-agency or intra-agency memoranda or letters, except under certain circumstances;
6. Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

7. Records or information compiled for law enforcement purposes, the release of which (a) could reasonably be expected to interfere with enforcement proceedings, (b) would deprive a person of a right to a fair trial or impartial adjudication, (c) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the identity of a confidential source, (e) would disclose investigative techniques, and/or (f) could reasonably be expected to endanger the life or physical safety of any individual;
8. Information contained in or related to certain examination, operating, or condition reports concerning financial institutions;
9. Certain information concerning gas or oil wells.

In addition, if the foregoing types of information may be reasonably segregated and deleted from any records, the EPA will make the remainder of that record available to you for inspection or copying, if it is not otherwise available.

SUBMITTING YOUR REQUEST

Before making a request under the FOIA, make sure the information you seek is not already available to the public in reading rooms or the Agency's Web site on the Internet. Copies of this public material can also be requested by writing to the Agency's headquarters office or to the appropriate Agency's regional office.

If the information you seek is not already available to the public, **submit a written request to the National FOIA Operations Officer in Washington, DC or the Regional FOIA Officer in the appropriate regional office (addresses listed below)**. To assist the EPA in the processing of your request, include: (A) readable information such as your name, address, and phone number; (B) try to be as specific as possible in identifying the records sought in a way that will permit their identification and location; (C) whether payment of fees are guaranteed; and (D) if fees are incurred, you will be required to provide a Taxpayer Identification Number (TIN), if requesting information on behalf of a company/organization or Social Security Number (SSN), if requesting information as a private citizen which is required under the Debt Collection Improvement Act of 1996.

Generally, you have a right to a decision with regard to the release of the requested records within 20 working days of receipt of your inquiry and the EPA makes every effort to meet this time frame. However, due to the complexity of certain requests, the agency may take a substantially longer time to fully respond to a request.

If your request is initially denied in whole or in part, in accordance with exemptions provided by the FOIA, you will be advised of your right to appeal. Generally, you will have a right to a decision on the appeal within 20 working days of receipt.

All requests made under the FOIA are a matter of public record and may be placed in the Agency's public files.

INSPECTION OF RECORDS

Records requested (in writing) under the FOIA can be made available for inspection at the Agency's headquarters office in Washington, DC or at the Agency's regional offices.

Actual production and/or copying of records should be arranged with the staff after it is determined that records are in fact accessible.

SEARCH, REVIEW AND COPY CHARGES

With certain specific exceptions authorized by the FOIA Reform Act of 1986, a fee will generally be charged when more than one-half staff hour of work is devoted to locating, reviewing and making available for inspection or copying records requested pursuant to the FOIA. These fees will recoup the full allowable direct costs incurred. In accordance with the EPA's revised FOIA regulations (40 CFR 2.100, et. seq.), effective November 5, 2002, the Agency's fees for processing requests have changed. The new fee schedule is as follows:

- Clerical staff time billed at \$4.00 per 15 minutes of search and/or review;
- Professional staff time billed at \$7.00 per 15 minutes of search and/or review;
- Managers' time billed at \$10.25 per 15 minutes of search and/or review;
- Duplication charges at \$.15 per page;
- No fee will be charged for services at or below \$14.00;
- Assurance of payment of fees above \$25.00 will be obtained from the requester before commencing any work;
- Advance payment of fees above \$250 may be required by the Agency before commencing any work; and
- Any other services not listed above, such as certification of documents or priority mail, will be charged the direct costs.

The EPA may determine to waive or reduce fees in cases where furnishing the information primarily benefits the general public by significantly assisting citizens in understanding how their government works. Requests for waiver or reduction of fees should be submitted with the requests for records under the FOIA. Please include in any waiver request relevant facts or arguments, which might support the request.

URL: <http://www.epa.gov/foia/broc.htm>

Appendix C

Sample Freedom of Information Act Request Letter

The following generic example of a federal FOIA request letter is adapted from the U.S. House of Representatives Committee on Government Reform, *A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records*, App. A (2005).

In addition, The Reporters Committee for Freedom of the Press has a website that can help you generate your own FOIA letter, by inserting information specific to your situation. See http://www.rcfp.org/foi_letter/generate.php

Agency Head [or Freedom of Information Act Officer]

Name of Agency

Address of Agency

City, State, Zip Code

Re: Freedom of Information Act Request

Dear [Agency Official]:

This is a request under the Freedom of Information Act, 5 U.S.C. §552.

I request that a copy of the following documents [or documents containing the following information] be provided to me: *[Identify the documents or information as specifically as possible]*.

[Optional] I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest. *[Include specific details, including how the requested information will be disseminated by the requester for public benefit.]*

[Optional] I am willing to pay fees for this request up to a maximum of \$[fill in]. If you estimate that the fees will exceed this limit, please inform me first.

[Optional] I request that the information I seek be provided in electronic format, and I would like to receive it on a CD.

[Optional] I also include a telephone number at which I can be contacted during the hours of [fill in], if necessary, to discuss any aspect of my request.

Thank you for your consideration of this request.

Sincerely,

Name

Address

City, State, Zip Code

Telephone number *[Optional]*

Appendix D

Organizations Active in Environmental Justice

This list includes regional and national organizations and coalitions. Local groups are also active across the country, but only groups that are organized into larger coalitions are listed here. Similarly, this list does not include the names of private consultants, though many effective consultants work on environmental justice issues.

Southeast

- **Deep South Center for Environmental Justice (DSCEJ)**
DSCEJ develops minority leadership in the areas of environmental, social, and economic justice along the Mississippi River Chemical Corridor.
<http://www.dscej.org/>
- **Environmental Justice Resource Center at Clark Atlanta University**
Supports, trains and educates people of color professionals and community leaders to help them move into the mainstream of environmental decisionmaking. See also the Center's extensive annotated bibliography on environmental justice.
www.ejrc.cau.edu

Northeast

- **Alternatives for Community and Environment (ACE)**
Works in partnership with communities of color and low-income communities to achieve environmental justice. ACE provides legal and technical support, educational programs, and organizing assistance to community groups throughout New England.
<http://www.ace-ej.org/>
- **Environmental Support Center**
Provides grassroots environmental justice groups with low-interest loans, money to pay for training and consulting, and technology assessments and equipment.
<http://envsc.org/>
- **New York City Environmental Justice Alliance (NYCEJA)**
NYCEJA is a city-wide network that links grassroots organizations, low-income neighborhoods, and communities of color in their struggle for environmental justice.
<http://www.nyceja.org/>

Midwest

- **Indigenous Environmental Network**
Educates and assists North American Indigenous communities in organizing around environmental and economic justice issues.
www.ienearth.org/

Northwest

- **Community Coalition for Environmental Justice**
CCEJ's mission is to achieve environmental and economic justice in low-income communities and communities of color. They are a coalition to improve air quality in South Seattle, Washington.
<http://www.ccej.org/>

Southwest

- **Southwest Network for Environmental and Economic Justice (SNEEJ)**
Brings together activists and grassroots organizations from across the Southwest and the northern border states of Mexico to broaden regional strategies and organize on environmental and economic justice issues.
<http://www.sneej.org/>

West

- **Asian Pacific Environmental Network (APEN)**
APEN works on environmental justice issues facing Asian and Pacific Islander communities in the United States, through grassroots community organizing and networking with other environmental justice organizations.
www.apen4ej.org/
- **Environmental Justice Coalition for Water**
A California coalition of environmental justice groups working on clean water issues.
<http://www.ejcw.org/Resources/Advocacy%20orgs.htm>
- **Communities for a Better Environment**
Provides legal and movement-building support to environmental justice groups in Northern and Southern California.
<http://www.cbecal.org/>

Alaska

- **Alaska Community Action on Toxics (ACAT)**
ACAT is a statewide organization working for environmental health and justice through support and assistance to communities and Native tribes in Alaska.
<http://www.akaction.org/>

Puerto Rico

- **Misión Industrial de Puerto Rico**
Supports community struggles in search of environmental and economic justice, sustainability.
P.O. Box 363728 San Juan, PR 00936-3728 Phone: 787-462-5088 Fax: 787-754-6462
Email: amaneser@coqui.net

National

- **Center for Health, Environment and Justice**
Works with grassroots community groups on issues such as: toxic waste, solid waste, air pollution, incinerators, medical waste and industrial pollution.
www.chej.org/
- **Environmental Law Institute (ELI)**
ELI publishes research on a variety of environmental law and policy issues for lawyers and community members. ELI has published environmental justice handbooks on working with lawyers, dealing with SLAPP suits, and enforcing environmental laws in the U.S.-Mexico border region.
<http://www.eli.org/>
- **Data Center**
The Data Center provides research and information to community-based organizations working for social, environmental, and economic justice.
<http://www.datacenter.org/>
- **Earthjustice**
Earthjustice is a non-profit public interest law firm dedicated to protecting the magnificent places, natural resources, and wildlife of this earth, and to defending the right of all. Earthjustice maintains nine regional offices around the country.
<http://earthjustice.org/about/offices>
- **Farmworker Network for Economic and Environmental Justice**
A coalition of farm worker organizations that works to improve safety, health, and economic well-being for farmworkers; strengthens and builds farmworker organizations and communities by promoting self-representation for workers and their families; supports the sustainability and retainability of agriculture; assures higher standards of safety and quality in agricultural products for consumers; and makes farmworkers more visible as a vital workforce for environmental justice by contributing data, insight, and strategic action to the environmental justice movement.
<http://www.jrank.org/cultures/pages/3871/Farmworker-Network-Economic-Environmental-Justice.html>
- **Greenfaith**
Greenfaith offers access to different kinds of resources to educate and mobilize religious communities to seek environmental justice.
<http://greenfaith.org/resource-center/justice>
- **Just Transition Alliance**
A coalition of environmental justice and labor organizations that work with frontline workers and community members who live along the fence-line of polluting industries to create healthy workplaces and communities. They focus on contaminated sites that should be cleaned up and on the transition to clean production and sustainable economies.
<http://www.jtalliance.org/>
- **Lawyers Committee for Civil Rights**
Established in 1991, the Environmental Justice Project works with the private bar to represent and advocate on behalf of communities of color that are challenging environmentally discriminatory conditions and decisions.
http://www.lawyerscommittee.org/projects/environmental_justice/about?id=0001

- **Global Community Monitor (also known as the Bucket Brigade)**

Global Community Monitor trains and supports communities in the use of environmental monitoring tools to understand the impact of fossil-fuel-industry pollution on their health and the environment.

<http://www.bucketbrigade.net/>

Appendix E

Publications and Web Resources on Community-Based Research

Publications

- *Community Environmental Health Assessment Workbook: A Guide to Evaluating Your Community's Health and Finding Ways to Improve It*, Environmental Law Institute, 2000. [http://www.elistore.org/reports_detail.asp?ID=522&topic=Environmental Justice](http://www.elistore.org/reports_detail.asp?ID=522&topic=Environmental%20Justice)
- *Toolkit for Assessing Potential Allegations of Environmental Injustice*, EPA, 2004. www.epa.gov/compliance/ej/resources/policy/ej-toolkit.pdf
- *Promoting Healthy Public Policy through Community-Based Participatory Research: Ten Case Studies*, UC Berkeley School of Public Health and PolicyLink. http://depts.washington.edu/ccph/pdf_files/CBPR_final.pdf
- *Speaking Truth, Creating Power: A Guide to Policy Work for Community-Based Participatory Research Practitioners*, Cassandra Ritas, Hunter College Center on Aids, Drugs and Community Health, 2003. http://depts.washington.edu/ccph/pdf_files/ritas.pdf

Websites

- *The University of Washington's Skill-Building Curriculum*
The curriculum is designed to explain the basic principles of community-based research and help people develop research strategies, build partnerships, and meet common challenges. <http://www.cbprcurriculum.info/>
- *Action Research, University of Wisconsin*
Catalogues CBR resources, tools, training, data, and web advice. <http://comm-org.wisc.edu/research.htm>
- *Community Tool Box, the University of Kansas*
The Tool Box is a guide to building healthy communities, from the first steps of understanding a problem to creating effective partnerships and assessing progress. <http://ctb.ku.edu/en/default.aspx>
- *Wikipedia*
Provides an overview, history, and criticism of community-based research. [http://en.wikipedia.org/wiki/Participatory action research](http://en.wikipedia.org/wiki/Participatory_action_research)

Appendix F

Web Resources on Grants

Community-based research:

- Seifer SD, Kauper-Brown J and Robbins A. Directory of Funding Sources for Community-Based Participatory Research. Seattle, WA and Portland, OR: Community-Campus Partnerships for Health and The Northwest Health Foundation, June 25, 2004. http://depts.washington.edu/ccph/pdf_files/directory-062704f.pdf
- Tips & Strategies for Developing Strong Community-Based Participatory Research Proposals, Sarena D. Seifer, Community-Campus Partnerships for Health, 2005. http://depts.washington.edu/ccph/pdf_files/cbpr-reviewf.pdf

EPA:

- Environmental Justice small grant program <http://www.epa.gov/compliance/environmentaljustice/grants/index.html>
- Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program <http://www.epa.gov/compliance/environmentaljustice/grants/index.html>
- Community Action for a Renewed Environment (CARE) grants <http://www.epa.gov/care/>
- EPA/CDC/ATSDR Federal Grants Guide for Community and Public Health Activities http://www.epa.gov/air/care/documents/EPA_CDC_ATSDR_Grants_Guide_web_061708.pdf

State government:

- Your state may provide grants to help community groups learn about troublesome environmental conditions. For example, New York's Brownfield Cleanup Program has technical assistance grants for non-profits. <http://www.dec.ny.gov/regulations/2590.html>

Guides to private foundations:

- <http://www.fundsnetservices.com/envIRON.htm>
- <http://staff.lib.msu.edu/harris23/grants/2env.htm>

Guide to grant writing:

- Writing a Grant Application for Funding, The Community Tool Box, a service of the University of Kansas http://ctb.ku.edu/en/dothework/tools tk_14.aspx

Appendix G

Sample Letter to Initiate ADR

Date

Company official
Name of Company
Address of Company
City, State, Zip Code

Re: Invitation to participate in alternative dispute resolution (ADR)

Dear [Company Official]:

We are the [Fill in the name of your organization], and we represent the community of [Fill in the name of your neighborhood]. We have formed a committee to investigate the impact of your activities on our environment and our health.

In our community, [Include a description of conditions in your community].

Our research shows [Include a summary of key research findings]. There is widespread community concern about the impact of your activities, and we are initiating a series of meetings to share our findings with the community.

We would like to be able to offer a strategy to address these serious problems. [If there is a suspected legal violation, you can suggest using ADR as an alternative to a lawsuit.] We believe the best strategy would be to enter into an alternative dispute resolution (ADR) process with you. ADR can be mutually beneficial because we can collaborate to solve these problems more quickly and creatively than has been possible in the past. We invite you to work with us to design an ADR process that will meet everyone's needs.

Please let us know by [fill in a date] whether you are willing to enter into an ADR process. [Consider describing how the community might respond if they do not respond.] Your cooperation in this matter is much appreciated.

Sincerely,

Name
Name of your organization
Address
City, State, Zip Code
Telephone number [Optional]

For more guidance on initiating ADR, see pages 21-27

The Environment Law Institute (ELI) makes law work for people, places, and the planet. For four decades, ELI has played a pivotal role in shaping the fields of environmental law, policy, and management, domestically and abroad. Today, ELI is an internationally recognized independent research and education center

known for solving problems and designing fair, creative, and sustainable approaches to implementation.

The Institute delivers timely, insightful, impartial analysis to opinion makers, including government officials, environmental and business leaders, academics, members of the environmental bar, and journalists. ELI serves

as a clearinghouse and a town hall, providing common ground for debate on important environmental issues.

The Institute's board of directors represents a balanced mix of leaders within the environmental profession. Support for ELI comes from individuals, foundations, government, corporations, law firms, and other sources.

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