FEDERAL ENVIRONMENTAL ASSESSMENT REVIEW OFFICE

CANADIAN ENVIRONMENTAL ASSESSMENT ACT

DISCUSSION PAPER

MEDIATION

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1.0 INTRODUCTION

This background paper is designed to assist the new Canadian Environmental Assessment Agency and Responsible Authorities invoived in environmental assessment in identifying the opportunities for the use of Alternative Dispute Resolution (ADR), including mediation, in the environmental assessment process and in meeting the mediation provisions of the Canadian Environmental Assessment Act (CEAA).

In Section 14 of the Act, the environmental assessment process is described as including, where applicable:

(a) a screening or comprehensive study and the preparation of a screening report or a comprehensive study report;

(b) a mediation or assessment by a review panel as provided for in section 29 and the preparation of a report; and

(c) the design and implementation of a follow-up program.

Throughout this document, mediation is defined in two ways: according to CEAA, a formal step in the environmental assessment process convened and conducted under the jurisdiction of the Agency; and secondly, as a dispute resolution tool for other stages of the federal environmental assessment process -- from scoping and assessing environmental effects in a screening or comprehensive study, to designing and implementing a follow-up program. While an effective EA technique, this latter application of mediation is, strictly speaking, beyond the scope of CEAA.

Mediation is a process of negotiation where an independent and impartial party who has no power to impose a settlement on the parties in dispute, assists the parties to resolve their dispute. It can be used from the earliest contact with proponents, communities and involved government agencies, to the review panel itself, including subsequent implementation of mitigation measures and monitoring.

Unlike the panel review process, which may be convened under the jurisdiction of the Agency and where hearings may be adversarial, mediation is a process to encourage dialogue to generate agreements where consensus is possible. Mediation may also assist to identify and possibly narrow the issues where agreement is not possible in order to expedite the treatment of those issues. The non-binding, collaborative problem-solving approach to disputes, characteristic of mediation, suggests that it has a strong role to play in environmental assessment.

This document is a guide to assist in environmental mediation; it does not formalize a set of rights, responsibilities, and administrative obligations. Mediation, if it is to be a successful tool in environmental assessment, must remain a flexible process.

In this document the reader will find:

- a statement of working principles that provide an operational framework for mediation in the federal environmental assessment process:
- an identification of the places within the federal environmental assessment process where mediation can be used;
- a generic description of the environmental mediation process;
- the essential elements of a procedure for using mediation, including
  - factors to consider in case selection
  - guidance on selecting a mediator
  - the requirements of a mediator's report; and
- a Glossary of Terms and a Selected Bibliography.

2.0 WORKING PRINCIPLES

Mediation is one of a variety of voluntary, collaborative dispute resolution techniques, manv of which can be used in environmental assessment.

Mediation should be used early in the environmental assessment process in order to increase the chances of producing solutions to disputes which meet the criteria of being fair, wise, efficient and enduring.

Mediation and other forms of negotiation-based approaches to environmental disputes can be used at many points across the continuum of the federal environmental assessment

process as described in CEAA: in Screening, in Comprehensive Studies; and under the Agency's jurisdiction.

Participation in mediation must be voluntary; those who are expected to use mediation must see the need for such a mechanism.

All legitimate stakeholders must be allowed to participate in environmental mediation.

The mediator(s) must be acceptable to all the parties involved in mediation.

Independence and impartiality of the mediator is required.

The mediation process must be open.

During the mediation process certain information may be volunteered which remains confidential. The mediator must respect these confidences in the mediation report.

Flexibility of the process is an essential feature of mediation and other forms of negotiation-based approaches to dispute resolution; those who are expected to use mediation as a dispute settlement mechanism must be given the opportunity to be involved in its design and implementation.

Mediated agreements should, wherever possible, provide for the resolution of disputes which may arise in the implementation of those agreements, using mediation and similar negotiation-based approaches.

The use of mediation need not be regarded as a failure when the parties are unable to come to an agreement or are able to agree on some but not all of the issues, particularly in large, complex cases.

Jn mediation, there is a distinction between “outputs” and “outcomes”. “Outputs” include discrete and concrete initiatives and undertakings, most notably a consensually-established agreement on substantive matters. “Outcomes” are derivatives of the mediation such as new technical or policy insights, new or altered relationships among the parties, and notably, the particular and global long-term implications of the mediation. Both outputs and outcomes are valuable and acceptable results in mediation.

Agreements reached in environmental mediation are agreements in principle; final responsibility for acceptance of the agreement and the determination of whether it is in the public interest rests with responsible ministers.

The successful implementation of mediation in environmental assessment will require education, training, and support for government participants,and support to other stakeholders.

Evaluation of the use of mediation in environmental assessment is essential in order to learn from experience.

3.0. MEDIATION IN THE FEDERAL ENVIRONMENTAL ASSESSMENT PROCESS

3.1 THE CONTINUUM OF ENVIRONMENTAL ASSESSMENT: DESIGNING THE PROCESS

The environmental assessment process is predominantly a decision-making process which relies upon conflict resolution processes except, perhaps, in cases of the most innocuous project. Even then, public concern can be so great that the project is the source of conflict despite the technical facts and objective merits. Sources of potential conflict in environmental assessment include:

- fundamental opposition to a proposed project

- disputes over technical issues and determination of environmental effects, including magnitude, prevalence, duration and frequency, and risks;
- options and willingness to introduce mitigating measures;
- departments' defence of, and assertions of, the need to protect the public interest; and
- increasing interest and requests from special interest groups to participate in environmental assessments.

An ideal approach to the use of mediation in environmental assessment is to consider it as a tool to be used at the earliest stages of the process.

The stakeholders involved in a proposed project may be convened at the outset by a Responsible Authority to work together to decide on the level of assessment required, including recommendations to the Agency on what a public review (mediation or panel) might consider. This can be done without compromising relevant authorities, including inter- and cross- jurisdictional authorities at both federal and federal-provincial levels. In fact, where joint processes are required, a mediation process may be the best way to clarify issues, to develop procedures that better address the needs and concerns of the interests, and to develop recommendations to federal and provincial ministers for their use in establishing a joint panel.

Both mediation and panel review are formal steps in the federal environmental assessment process. There may be a role for both as any particular project is assessed. The overall goal of rendering fair and wise decisions with respect to projects can be served through the judicious use of mediation, panel review, and/or combinations of the two.

3.2 APPLYING MEDIATION

Mediation may be used at a number of stages in the process.

1. As a dispute resolution tool during screening and comprehensive studies.

2. As a formal step in the public review process administered by the Agency.

3.2.1 THE USE OF MEDIATION IN SCREENING

Most Responsible Authorities are encouraging both private and public sector proponents to initiate project proposals in a collaborative, problem-solving manner that includes openness and consultation. The wisdom of engaging relevant communities, special interest groups and in providing adequate information at the earliest point in a project's planning cycle has become apparent. Where it is not apparent, protracted and adversarial environmental assessment and review, with attendant costs, is encouraging proponents to use processes that have a higher probability of producing acceptable, cost-effective outcomes.

Public consultation, joint problem-solving, and the use of a number of negotiation-based, or alternative dispute resolution processes, are becoming hallmarks of successful project implementation.

At the screening stage in environmental assessment, the mediation process may be used to identify adverse effects, for example, through collaborative approaches to fact finding, and to enlist all legitimate stakeholders in the development of an acceptable solution to environmental issues, including mitigation and compliance measures.

The use of mediation in initial screening may set a constructive tone with respect to more detailed assessment, including agreement on the narrowing of issues for consideration in a panel review.

3.2.2 THE USE OF MEDIATION IN COMPREHENSIVE STUDIES

As in the case of using mediation and other alternative dispute resolution tools during screening, a Responsible Authority could initiate mediation during a comprehensive study.

The value of using consensual approaches, rather than adversarial and contentious approaches during comprehensive studies, which include highly technical and scientific issues, has been underlined by experts in the field. Whereas parties involved in a dispute with scientific and technical issues may contend that a negotiation-based approach will compromise the integrity of their position, and

might therefore prefer an adjudicatory process, consensual approaches are able to address their concern.

A mediation process conducted during a comprehensive study enables the parties to develop the factual basis upon which difficult decisions are made. It is possible to reach agreement on the scientific and technical issues to be addressed (i.e., the appropriate questions), the means by which the facts will be determined, and the experts who will undertake the gathering and interpretation of information.

3.2.3 FORMAL MEDIATION UNDER CEAA

Mediation is a formal step in the federal environmental assessment process, applied either on its own or to support a panel review.

In mediation, a mediator is appointed by the Minister of the Environment after consulting with the responsible authority and the other parties. The mediator assists the participants in reaching a consensus, but does not make decisions for them.

Mediation should be used as an alternative to a panel review when:

- the interested parties are easily identified; and
- the parties are willing to participate in the process.

Mediation can address all or part of an environmental assessment of a project. For example, it may be used to resolve specific issues which may not be suitable for resolution by a review panel, such as the determination of the most effective mitigation measure.

To encourage open dialogue during the mediation process, all statements by the mediator and participants are privileged unless otherwise agreed to by the mediator or participant.

To succeed, mediation should reflect the following principles:

- Participation must be voluntary; those who are expected to participate must see the need for such an approach;
- All legitimate stakeholders must be allowed to participate;

- The mediator must be acceptable to all the parties involved;
- The mediator must be independent and impartial; and
- Confidentiality must be respected by all participants.

The Agency's recommendation to the Minister for a "stand alone" mediation will have included an assessment of the appropriateness of a mediation process in each case. The guidelines presented in this document with respect to party willingness to proceed with mediation, acceptability of the mediator(s), and the terms and conditions of convening, conducting and reporting on the mediation all apply.

It should be noted that the use of mediation under the jurisdiction of the Agency may be augmented as follows:

1. When mediation terminates with partial success, outstanding issues could be referred to a review panel. The panel would hear evidence and make recommendations on the outstanding issues.

2. Subject to the approval of the parties, adjudication may be used within the mediation. In this case, an issue proving intractable in mediation would be referred to a review panel. The decision would then be used to further the mediation process.

Mediation in Panel Reviews:

A mediation session may be convened during a panel review, to bring the stakeholders together in a problem-solving process intended to identify, and possibly reduce the issues to be heard by a panel by finding solutions in advance of a full hearing.

Technical issues whose resolution appear amenable to consensual approaches, and other matters before the panel that need not be addressed in an adversarial, quasi-judicial forum may all be addressed through mediation convened in the context of a panel.

It is conceivable that a panel may recommend that certain residual issues be referred to mediation. Should mediation fail, the matters in question could return to the panel.

The guidelines presented in this document with respect to party willingness to proceed with mediation, acceptability of the mediator(s), and the terms and conditions of convening, conducting and reporting on the mediation all apply in panel-initiated mediation. The mediator's report, however, is forwarded to the panel chairperson.

4.0 THREE STAGES OF ENVIRONMENTAL MEDIATION

As shown in Figure 1, the three stages of a comprehensive environmental mediation process are:

- CONVENING
- ASSISTED NEGOTIATION
- FOLLOW-UP AND IMPLEMENTATION.

4.1 CONVENING

Convening can consist of two functions: fact-finding, and a consultative process. Convening is the pre-negotiation, preparatory stage in mediation concerned with ensuring that a number of essential elements are present before an attempt to mediate is finally decided. Convening is a dynamic and sensitive stage that is conducted by a skilled practitioner perceived to be at arms-length from the Agency. Convening is a stage during which the parties assess with the assistance of the convenor, whether or not mediation is appropriate, and if so, the basis upon which the mediation will proceed. One of the critical considerations at this step is whether or not the convenor will have earned the confidence of the parties and will continue in the role of mediator; or whether another independent person will be selected by the parties to act as mediator.

(See Section V: Procedures for Agency-specific guidelines on case selection and selecting a mediator, pages 14 and 17)

FIGURE 1

ENVIRONMENTAL MEDIATION: A THREE-STAGE PROCESS

CONVENING (FACT FINDING and/or CONSULTATION)	The convenor, working with the parties, determines whether mediation is appropriate by: ▸ identifying the parties ▸ identifying the issues ▸ determining party willingness to proceed ▸ determining acceptability of mediator

↓

ASSISTED NEGOTIATION	▸ The mediator is appointed ▸ The mediator assists the parties to negotiate an agreement ▸ The mediator's report is prepared, outlining a brief record of agreements ▸ The mediator's report is forwarded to the Minister of Environment and the Responsible Authority

↓

IMPLEMENTATION & FOLLOW-UP	▸ A committee of stakeholders may monitor implementation of the agreement ▸ Modifications to the agreement and/or to technical implementation measures are made with consultation and support from the stakeholders ▸ Any implementation disputes or disputes arising during the life of the project are addressed by processes established during the mediation

- CONSULTATIVE:

The convening process is an integral and critically important element in mediation. Convening is essentially concerned with getting the parties to the table, and in a frame of mind to enter the negotiations with a view to resolving the dispute through early issue identification and clarification. Convening is especially critical because it is the first explicit opportunity to build trust in the process of mediation and to demonstrate the voluntary and consensual dimensions of the process. This is the moment that parties are able to join in the early discussions about the process, its goals, design, and how the outcome will be treated by the government.

- FACT FINDING:

Identification of interests and recruitment of representatives is a critical step in the mediation process. It is one of the axioms of sound practice that all relevant parties must be at the negotiating table; otherwise, the value of the process is compromised and the chances of reaching an implementable agreement are lessened.

The identification of interests will likely involve distinguishing between directly and indirectly affected interests and deciding how these parties are to be represented at the negotiating table (i.e. sorting out who needs to be at the table, and who needs to be kept informed). For organized interests, the selection of a representative should be reasonably straightforward. The participation of community-based interests, which tend to be more diverse and issue-dependent, may be secured through coalition-building (or may require the designation of a representative spokesperson).

Within a voluntary "consensual" framework, the criteria which need to be met in the convening stage prior to entering multi-party negotiations include:

- **identification of the parties:** all relevant parties must be identified.

- **representation:** the representation of the parties by legitimate spokespersons must be established.

- **issues identification:** some clarification of the issues as they are perceived by the different parties is necessary to facilitate negotiations.

- **willingness to participate:** the parties must agree to participate in a mediation.

- **resourcing:** the costs of participating must be estimated and provisions made to cover the logistical costs of mediation, the mediator's fees, and the costs associated with the participation of stakeholders.

- **acceptability of a mediator:** the parties are given the opportunity to select a mediator from a short list, or to ratify the appointment of a mediator.

4.2 ASSISTED NEGOTIATION

Once a mediator has been selected with the approval of the parties, his/her first task is to work with the parties to develop protocols that will govern the conduct of negotiations. Agreement on procedures normally include topics such as:

- roles and responsibilities of the parties and the mediator;

- release of information and reporting back to constituents; and

- the form and nature of the recommended agreement, which will be forwarded to the minister.

Other matters to be settled include the timetable for negotiation and the resources necessary to support the process.

At this stage, the parties to a dispute turn to the issues and the substantive matters in dispute. The emphasis in mediated negotiations is on ensuring that the disputants work through the substantive issues in an orderly, focused, and creative manner. It is the job of the mediator to ensure that the discussions do not become unproductive and that representatives maintain links with their constituencies. Much effort may have to be expended to ensure that the parties continue in the problem solving mode and do not lapse into confrontational bargaining. When the latter occurs, the process can become derailed and may degenerate into confrontation.

The approach followed to try and ensure that negotiations are productive involves the following:

- establishing the agenda of issues to be discussed (which problems are to be tackled and in what order);
- identifying information requirements, including the terms of reference for independent consultants and opportunities for joint fact-finding;
- working toward a single negotiating text to focus the discussions;
- packaging the alternatives for mutual gain so that important interests are considered and accommodated when formulating proposals (rather than the parties becoming deadlocked over specific issues);
- finalizing the agreement, which will usually involve a full review of the terms of a proposal with the communities and organizations involved; and
- filing a mediator's report to the relevant authority.

4.3 IMPLEMENTATION AND FOLLOW-UP

The mediation process does not conclude when agreement is reached. A post-negotiation phase of activity follows. It encompasses monitoring the implementation of the agreement (i.e. the compliance of the parties) and, if necessary, modifying sections of it. The terms of an agreement should include provisions for monitoring and possible renegotiation.

Given the uncertainties typically associated with impact assessment, it is inevitable that certain understandings will be contingent upon further information and circumstances. Mitigation and compensation measures, for example, can be linked to actual (monitored) as opposed to assessed (predicted) impacts. It is not always easy, however, to disentangle cause and effect. Where surrounding circumstances also change and impinge on understandings, the parties may wish to mutually revise all or part of the package of impact offsets.

Because a mediated negotiation is a voluntary consensual process, it is in the interest of the parties to link any agreement to the institutions and individuals with responsibility for formal implementation (i.e. with decision-making powers). The mediator is required to report to the Minister of the Environment and the Responsible Authority. Where an agreement has been reached by the parties, the expectation would be that this will constitute the substance of the mediator's report. In the event of an impasse, with the consent of the parties, the mediator could include recommendations that might be helpful in subsequent sequences of dispute settlement. The final responsibility for acceptance of the agreement and the determination of whether it is in the public interest rests where it should in a parliamentary democracy -- with responsible ministers. [1,2]

5.0 PROCEDURES

5.1 CASE SELECTION

The selection of cases for mediation will depend on an initial identification by the Agency supported by the findings of the Convening Stage that must take into account a series of factors:

- critical questions about the case itself;
- the degree of conformity of the situation to principles associated with success; and
- the presence of features that tend to underpin a successful consensus process.

A. CRITICAL QUESTIONS

Those who have written on mediation in Canada and the United States have proposed a variety of questions that can be asked before a decision to proceed with a consensus process.

1. Is there a dispute? Is there a strong perception of a conflict that needs to be resolved?

2. Can the real issues be addressed at this time?

3. Are the real issues negotiable?

4. Can the major interest groups be identified?

5. Are there representatives who can speak for the interests?

6. Do all the parties have an interest in settling the issues?

7. Are there meaningful deadlines for reaching agreement?

8. Are there negative consequences for failing to agree or incentives for reaching agreement?

9. Can a viable process be structured or are there outstanding issues that need to be addressed before a process gets underway?[3]

B. PRINCIPLES OF SUCCESS

In addition to the above questions, several principles that appear to increase the likelihood of success in environmental mediation have been identified. These principles include:

- The parties must have some incentive to negotiate an agreement with one another.

- The way the negotiation or consensus-building process is conducted is an important factor in whether agreements will be reached. The ability (and willingness) of the parties to identify the interests that underlie one another's positions, and to invent new alternatives that satisfy these interests, helps enormously in resolving disputes.

- The most significant factor in the likelihood of success in implementing agreements appears to be whether those with the authority to implement the decision participated directly in the process.

- The most important reason for relatively high success rates in dispute resolution efforts probably is that the mediators conducted dispute assessments at the beginning of each case (convening stage), as a first step in helping the parties decide whether to proceed with a voluntary dispute

resolution process, and, if so, what the nature or the ground rules of the process should be.[4]

C. FEATURES OF A SUCCESSFUL CONSENSUS PROCESS

Experience indicates that a number of conditions must be met before embarking on an effective consensus process.

(1) **There must be an unresolved conflict or potential for conflict.** In order to get people to participate in consensus-building, they must perceive a conflict to exist and feel that existing decision-making processes are not likely to deal with it satisfactorily. This is not a particularly onerous condition, as conflicting interests and activities are not in short supply.

(2) **All key stakeholders must have an incentive to seek a decision by consensus.** All relevant interests must have an incentive to change the present situation or process, otherwise one or more will not be committed to finding a joint solution and can undermine the process by their indifference. Furthermore, each stakeholder must be amenable to resolution by consensus over other modes of deriving a solution. For instance, interest groups may wish to avoid fractious public debate that may divide a community or exhaust their scarce resources; project proponents may want to avoid challenges raised before administrative bodies or mounted in the courts. Furthermore, it is essential that no stakeholder feels that a better deal can be obtained by lobbying higher authorities or by exercising power, otherwise that stakeholder will not be committed to making a consensus process work.

(3) **All stakeholders must support the consensus process.** By the same token, such a process will work only to the extent that those who are intended to use it are supportive. Since it may not be politic to appear to be unreasonable, some stakeholders may not oppose the development of a consensus process, but may lack any real investment in its operation.

(4) **There must be a political will to see the process through.** Support for the consensus process and its results must also exist within the political and bureaucratic levels of government. Overturning or ignoring decisions emanating from a consensus process is a sure way of undermining the process and the relationships developed through it. Also, authorities must indicate a clear "hands-off' approach so as not to encourage lobbying.'

5.2 SELECTING A MEDIATOR

During the Convening stage of a mediation, the convenor, a skilled professional perceived to be at arms-length from the Agency, will consult with the parties involved to identify the preliminary issues and a willingness to proceed with a mediation. At this time the parties may choose to have the convenor continue in the role of mediator; otherwise, they will be presented with a short list of mediators considered to be most appropriate for the case. The parties will select the mediator (or a team of mediators) from the list. The Agency will then recommend that choice to the Minister. The Minister appoints the mediator.

The potential value of a convenor being confirmed by the parties in the role of *mediator is that continuity may facilitate the mediation by ensuring that valuable information obtained in the convening stage is carried forward to "Stage Two: Assisted Negotiation", without any loss.

In all cases, the fundamental prerequisite in selecting a mediator is his or her acceptability to the parties involved.

The essential prerequisites of a good mediator are not so much personality traits as capabilities. Important capabilities are:

- ability to gain and maintain trust and respect confidences
- ability to listen
- the ability to negotiate effectively

- ability to move the process along directly through rewording of negotiated texts

- substantive knowledge of related politics and decision-making processes, in this case with respect to federal environmental assessment.

5.3 MEDIATOR'S REPORT

(a) **Terms of Reference** typically include clarification of mandate, including: parameters of the mediation (i.e. issues); specification of the independence of the mediator; interim and final reporting requirements; and deadlines.

The Terms of Reference will often be informally established in the Convening Stage and will form the basis of the mediator's work with the parties and the terms and conditions of his/her appointment by the Minister. The Fact Finding and Consultative dimensions of Convening will have generated a preliminary identification of the issues and critical information in respect to proposed project timing and deadlines.

(b) **Reporting:** A mediator's report should be limited to a brief record of agreements and outstanding issues. This is a significant confidentiality issue. A report should include an analysis of differences only if the parties have reviewed and approved the report.

(i) In a mediation convened under the auspices of the Agency, the mediation report is presented to the Minister of Environment and the Responsible Authority. It typically includes a record of the agreement if one is reached and in the event of an impasse, only if the parties agree, recommendations that might be helpful in subsequent mechanisms of dispute settlement. Final decision-making authority rests with the Responsible Authority.

(ii) When mediation is conducted within the context of a panel review the mediator's report is presented to the panel chairperson for review and appropriate action.

ENDNOTES

1. Reachino Agreement, Volume 1: Consensus Processes in British Columbia, the British Coloumbia Round Table on the Environment and the Economy.

2. "Building Mediation into the Federal Environmental Assessment and Review Process", Barry Sadler, in The Place of Negociation in Environmental Assessment, published by the Canadian Environmental Assessment Research Council, Ottawa, 1989.

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5. Reaching Agreement, Volume 1: Consensus Processes in British Columbia, the British Columbia Round Table on the Environment and the Economy.

APPENDIX A

GLOSSARY OF TERMS

AL TERNATIVE DISPUTE RESOLUTION (ADR): Refers to a growing number of methods for resolving disputes without going to trial. Most are negotiation-based approaches, such as conciliation, facilitation and mediation and may include adjudicatory processes such as arbitration.

NEGOTIA T/ON: A back and forth communication designed to reach an agreement when you and the other side have interests that are shared and others that are opposed.

FISHER & URY, *GETTING TO YES: REACHING AGREEMENT WITHOUT GIVING IN.* 1981.

A process whereby two or more parties attempt to settle what each shall give and take, or perform and receive, in transaction between themselves.

RUBIN AND BROWN, *THE SOCIAL PSYCHOLOGY OF BARGAINING AND NEGOTIATION.* 1975.

MEDIA TION: A process of negotiation where an independent and impartial party who has no power to impose a settlement on the parties, assists the parties to resolve their dispute.

According to CEAA, mediation is defined as on "environmental assessment that is conducted with the assistance of a mediator appointed pursuant to section 30 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2). "

CONSUL TA TION: To be distinguished from negotiation, consultation is a process of two-way communication by which parties are informed about proposals that may affect them, and have an opportunity to express their views and concerns prior to final decisions being taken.

CEARC, *THE PLACE OF NEGOTIATION IN ENVIRONMENTAL ASSESSMENT, 1989.*

ARBITRATION: A quasi-negotiated process in which an impartial third party renders a decision that is generally binding on the disputants.

CEARC, THE PLACE OF NEGOTIATION IN ENVIRONMENTAL ASSESSMENT, 1989.

JOINT FACT-FINDING: Occurs when the fact-finders undertake the task directly with the negotiating parties.

CEARC, THE PLACE OF NEGOTIATION IN ENVIRONMENTAL ASSESSMENT, 1989.

MEDIATOR: An impartial, independent third party who has no authority to impose a settlement and who assists the parties to negotiate an agreement.

FACT-FINDER: Usually have technical expertise relevant to the negotiation and use it to investigate and analyze the issues

CEARC, *THE PLACE OF NEGOTIATION IN ENVIRONMENTAL ASSESSMENT, 1989.*

ARBITRATOR: An impartial independent third party with authority to impose a binding settlement after reviewing the merits of the case against objective standards .

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