

Practicum in
Natural Resource and Environmental Conflict Resolution

The Columbia River Treaty

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This three-credit practicum is designed as the capstone experience of the *Natural Resources Conflict Resolution Program*. It is available to students that are enrolled in the program and have completed the core classes in natural resource and environmental conflict resolution and negotiation. In rare cases, students who do not meet these prerequisites may be allowed to participate in the practicum. Students may take the practicum for credit under LAW 679, FOR 579, or EVST 579. It may fulfill either required or elective credits for the NRCR Program.

The focus of the practicum changes annually and is based upon some geographical area where numerous natural resource issues converge. It develops and refines skills to prevent and resolve natural resource disputes by addressing current issues in natural resources policy from the perspective of alternative theories and methods of collaboration and conflict resolution. The practicum is designed to provide students significant practical experience.

The past subjects of study have been:

- Ninemile Valley, Montana (2007)
- Crown of the Continent, British Columbia-Alberta-Montana (2006)
- International Environmental Conflict Resolution (2005)

The “Treaty Between the United States of America and Canada Relating to Cooperative Development of the Water Resources of the Columbia River Basin” (The Columbia River Treaty), is one of the most far-reaching water treaties in the world. Since it was signed in 1964, it has allowed the basin to become one of the world’s leading hydropower rivers albeit with huge impacts on fish, navigation, irrigation, recreation, and indigenous cultures. The basin is the fourth largest in U.S. and equal to the size of France, including parts of Oregon, Montana, Idaho, Washington, and British Columbia. The Columbia has 10 times the flow of the Colorado, 2.5 times the flow of the Nile, and includes 79 facilities and 13 large dams—11 in the U.S. and 2 in

Canada. The basin has high variability and depends on snow mass and complex drainage paths in and out of Canada. Canada has 15 percent of the basin area, but 30 percent of the flow. In 1944, as Canadian and U.S. planners recognized that cooperative development might well be superior to individual actions, both countries requested that the International Joint Commission (IJC) study the feasibility of cooperative development in the Columbia Basin (Muckleston 2003, Kenney ed. 2005). From 1944 to 1959, the IJC studied cooperation options, and in 1964 the governments of Canada and the U.S. ratified the Columbia River Treaty and Protocol. The treaty set up a complex system of selling downstream power benefits in exchange for upstream storage benefits on a 30-year basis. The treaty provides new storage to optimize flows for power and flood control and the Canadians obtained “rights to power.” The flow in the river is evened out, as peak flows from snowmelt are held back then released as needed.

The treaty is one of the most sophisticated in the world, particularly because it circumvents the zero-sum approach to allocating fixed quantities of water by instead allocating to each country an equal share of benefits derived from the multiple uses of water in the shared basin. Hydropower production and flood control, were quantified and shared annually, and there is little dispute across international boundaries. It is an example of how joint diagnosis can lead to joint benefits, rather than conflict over the allocation of flows. A mechanism for the parties to coordinate “as if” they were one owner was put in place, with an annual operating plan and an obligation to cooperate in shortage. It regulates reimbursements for upstream releases that benefit downstream generators and “in lieu” energy payments when holding water for decreases in power generation (Muckleston 2003). These benefits, however, were “fixed” in 1964, and included only hydropower generation and flood control. Excluded were many of the values that society has found increasingly important in the intervening years, particularly instream flows for ecosystem health, and tribal obligations to the vast reservations within the basin.

The treaty expires in 2024, and either side can notify their intent to renegotiate by 2014. While this deadline is well beyond the planning horizon of most political decision makers, many professionals involved in management of the basin, notably the Columbia Basin Trust on the Canadian side, and the Northwest Power and Conservation Council on the US side, have started to think about the dramatic changes in store given the all-but inevitable renegotiation. Given the profound changes that will need to be incorporated in a new version of this agreement, and given that international water treaties generally take decades to negotiate (the Indus treaty took 10 years of negotiations, the Ganges 30, and the Jordan 40), it is not too early to embark on a basin-wide dialogue to help craft the thinking towards this critical process.

This practicum is divided into three basic parts. During the first few weeks, we will become familiar with the Columbia River basin through a series of readings on the history, economics, culture, law, and science of the basin. We will also hear from one

or two guest speakers to inform and invigorate our understanding of the basin and the project.

During the second part of the practicum, students will conduct interviews with key decision-makers and stakeholders in the basin. The interviews will focus on what has worked with respect to the current treaty, what has not worked, and how should the pending negotiations be framed (in other words, what are the key issues that should be addressed, who should be at the table, etc.).

For the third and final part of the practicum, the students will work together to prepare a policy report that summarizes the interviews and provides one or more options on how to frame the pending re-negotiation of The Columbia River Treaty. The policy report will be presented at a spring 2009 conference on this topic, and distributed to all the interviewees and other interested people.