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***THIRD-PARTY NEUTRAL APPROACHES RELATIVE TO
NATURAL RESOURCE DAMAGE ASSESSMENTS (NRDAS) -- OPTIONS AND
RESOURCES***

Background: The “NRD Industry/Trustee Standing Committee” of the Ad-Hoc Industry Natural Resource Management Group set up a small working group comprised of company and government representatives in late 2016 to explore the use of Third Party Neutral Approaches in the context of natural resource damage assessment and restoration (NRDAR). The working group supports the availability and use of these approaches as a possible additional tool for use in Natural Resource Damage Assessment (NRDA) applications, notably where this can be useful in moving a case along and/or successfully moving it to conclusion. Naturally, any use of such approaches is entirely at the discretion of the party or parties involved and are strictly voluntary.

Background on Natural Resource Damage and Restoration. The background of the Natural Resource Damage (NRD) provisions of US laws and key associated NRDAR programs of federal and state government, regulations and guidance can be found elsewhere on this website.

Possible Uses and Benefits of Third Party Neutral Approaches. The use of Third Party Neutral Approaches can serve to facilitate the conduct of NRDA's and as such, identifying this resource to all NRDA stakeholders (ideally at the outset of a case) can be useful. Examples of situations that might benefit from application of Third Party Neutral approaches include settling contribution determinations, facilitating faster settlements, arriving at an agreed upon baseline for damage assessments, agreeing on cleanup/restoration coordination and various other aspects of the NRDA process.

Future Plans. The Standing Committee will continue to identify on an ongoing basis available resources under the general rubric of “NRDA-Related Third Party Neutral Approaches” and will post them posted here for the information of stakeholders in private and public sectors. We will add to this listing as warranted by ongoing needs and interests of the various parties in government and private industry. To the extent we can, we will document experience with Third Party Neutral Approaches at specific sites and identify lessons learned as available too. If there is sufficient interest, a more formalized third party neutral function (a resource center, a board of mediators or facilitators, etc.) could be explored in the future.

What's Here. Resources fall in four categories: (1) Mediation and Conflict Resolution Centers; (2) Individual Experts; (3) Training Opportunities; and (4) Other.

Identification of Resources and Case Applications. Please send to us at group@nrdonline.org entries to the listing below as available. We are also interested in having summaries of specific case applications involving third party neutral approaches to share here.

Note: This document was prepared by the Ad-Hoc Industry Natural Resource Management Group in cooperation with Federal, State and Tribal Trustee representatives participating in the Group's Industry/Trustee NRD Standing Committee. The document was initially prepared as a result of a Continuing Legal Education (CLE) multi-stakeholder seminar convened by the Group in cooperation with the Federal Bar Association in 2019 and has been reissued in 2024. For more information, see <https://www.nrdonline.org/USActivities.php4>.