# WHO SPEAKS FOR THE LAND?

# A CRITIQUE OF NEGOTIATION AS A TOOL

# IN DEVELOPING LAND POLICY

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To imitate the cosmos
Is to be passionately involved
In justice

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Negotiation and mediation are relatively new tools for settling disputes over land use. Yet they are less an alternative to traditional means of developing and resolving conflict than a supplement to them. Negotiation is a social movement and as such deals with conflict among the socio-economic interests of humans. It is this human framework of economics, with its concepts of property, resource use, contractual agreements, exchange and compromise, that determines attitude and policy toward the land. It is an anthropocentric approach that views conflict over land use as among only human parties, whether they are private or public, developers, native peoples, landowners, sportsmen, or environmental groups.

A more basic tension is between the notion of property and use itself and a concept of the land as having an inherent value and being an essential "party" to the conflict of interests. Seen as a radically different paradigm, this view raises questions about the potential and problems of using a basically "economic" tool, negotiation as a human exchange, to develop human interaction with the land. Who speaks for the land?

## I. What is the Land?

A fundamental and fatal tension between two concepts of land hangs over the planet with sway over its fate and that of its inhabitants.

Through the historical window of Western culture[1] land has been variously perceived and related to as object of piety, as domain, property, and resource, and as aesthetic object of beauty.[2] All human-referential notions, these have created an anthropocentric paradigm that relates to land in a hierarchical and economic mode. In this way of seeing land, it is a physical complex of soil, forest, water, air, all those elements which are recognized today in property law as a "bundle of rights."

An ecological window reveals a radically different view. Through it land as biosphere or global ecosystem has an inherent value, and all elements are of equal value, including humans as members of the natural system. Land as described in environmental terms -- biosphere, hydrosphere, lithosphere -- is nature itself. This biocentric paradigm has diverse traditions but is currently expressed as a land ethic, deep ecology, ecofeminism, reinhabitation, and green politics (at least in its European version).

Careful definition of these concepts and the tension between them is necessary to determine if they are mutually exclusive or whether there is any common ground.

<u>The hierarchical concept</u>

Essentially, land and the earth's elements are seen as resources to be used by humans, even as belonging to humans. Whether given to humans for their use and care by an external Being, who is the ultimate Maker or "owner," or a result of linear evolution through which humans

come out on top as most highly evolved, with an attendant right over the rest of nature, the land, nature, is separate from the human and subject to human volition. The relationship of human and nature is, in the language of Martin Buber, "I-it". Thus, humans as individuals and as collective states can possess, legally own, and exclude other humans from access to the possessed portion, whether land acreage, airspace, or waters. This is the wellspring and principle of property and of nationhood. It is a separateness that has been seen as a rejection of habitat and of self.[3.]

Historical sources of this separateness seem to be in two forces which have shaped Western culture: Judeo-Christian religion and the concept of economics. Western religious thought puts the human at the center of, not within, the processes of nature, and posits a single god whose power, whether benevolent or punitive, is the source and end of all of nature. From this monotheism[4.] emerged a patriarchal consciousness and system of relationship, in which the notion of paterfamilias extended to all life and which separated the inheritor of divine power (whether patriarch, warrior-king, or priest) from nature. Eventually, this social order became so familiar that the more ancient myths were replaced and forgotten -- and the patriarchal myth was accepted as the "natural" order of things. Christianity, originally a kind of moral revolution, closed off memory of pre-patriarchal relationships when its founding fathers, notably Augustine, formulated the notion of original sin, thus introducing guilt and redemption into the human order.

At the core of Christianity is the hope of salvation after death, essentially an attitude that does not hold the earth sacred. It is directed away from earth and looks forward to death as release. Even in the benevolent framework of stewardship therefore, land and the goods of the earth are managed and taken care of <u>for</u> someone (the Maker), and one is judged on one's stewardship at death. Dominion (domination) and dualism (separateness) are characteristic features of Western religion, no matter the guise.

From the ecological window this appears as a death-oriented tradition, anti-nature, and essentially exploitive. It does not respect nature per se, but only as dominion or extension of the Highest Being, who created earth.

The economic source of separateness between human culture and nature is in the concept of ownership of property and all the legal rights and growth-related pursuits that have grown up around it. While in Europe land ownership retains a sense of social context and is accordingly regulated or preserved, the United States' expansionary history has permitted and perpetuated a notion of property as each man's sacred right. Owned land, and all the natural elements it contains, can be used and managed generally as the owner sees fit (excepting the claims of other humans) and is seen as a basic market commodity, a growth-inducing resource in an economy Molotch describes as itself a "growth machine".[5.]

Religious and economic sources may be traced to deeper levels of separateness -- psychic split in the human mind,[6.] turning of male against female,[7.] or "a bleeding at the roots,"[8.] -- and may seem curious bedfellows to explain a concept of land, yet it is this very alliance which has created such a powerful myth of land. People who are totally un-religious still reach for the language of inherent right and natural hierarchy when pushed to support their economic claims to land. And people who sincerely speak of stewardship are generally supportive of and unwilling to give up notions of development and management or pursue the implications of hierarchical thinking. Stewardship, or wise use, may be a reaction to abuse of land, but it remains <u>within</u> an economic framework, not an alternative to it.

This hierarchical and economic concept of land is essentially an exploitve framework of relationship. Land and nature are <u>externally</u> viewed, manipulated from without in a mode of managerial rationality to serve the interests of humans, however these are masked or projected.

<u>The relational concept</u>

In contrast to the hierarchical view of land as property or domain is the view of land in a <u>contextual</u> sense. Land in context is the natural ecosystem of elements that exist in symbiotic relationship, every element influencing every other. The relationship of soil, flora, fungi, climate, moisture, insects, trees, animals, birds, bacteria, and air that is "forest" is an example of an ecosystem; yet it is itself interdependent with proximate and distant elements to form a

global living system, interacting continuously as matter and energy.[9]

Distinct from environmental attitudes that remain anthropocentric (preservation of a "wilderness" area for its recreational, or aesthetic, or future generational resource value to humans or even of a species because its loss poses a problem for human survival), this nature-centered "deep ecology" asserts the intrinsic value of all elements in nature, living and non-living. Their value does not derive from an external source, nor does the human occupy a superior evolutionary position. The human relationship to nature is one of "I-thou", participating from within, in a constant relatedness and interdependence with natural processes. This non-anthropocentric philosophy of nature and practical environmentalism, as described by Gary Snyder, contains an ethical responsibility toward the non-human and critiques shallow "resource management" environmentalism. "The land, the habitat, nature is the main player." [10]

Two essential principles describe the deep ecological, relational concept: recognition and co-participation. By recognition is meant an awareness of the nature of nature -- and of the human as within nature -- that perceives that all is mind, that the properties of thinking are in all systems.[11] As John Stolz, a microbial biochemist, concludes from his studies of the interactions of magneto-taxic bacteria which navigate through magnetic sensitivity in sediment, "All is alive, the rocks are alive!"[12]

In recognizing this essential aliveness and the quality of mind in all natural elements, the human thus also recognizes sacredness, that there are many things that cannot fully be known and thus do not brook massive human tampering or interference. Recognition of the dynamic and intelligent nature of nature leads to awareness that we do not know what is going on in the other's mind. It means thus a humility, an unknowing or "mystery" inherent in relationship,[13.] and it precludes conscious purpose or design by any one source, human or divine.

Co-participation, or co-evolution in the language of adaptationist anthropology and the "new cybernetics",[14.] describes humans and nature as part of the same communication system. Schemske defines co-evolution as "joint selective effects on characters of interacting taxa based on heritable variation in those characters."[15.] In other words, evolution may be less directional and linear than reciprocal, and this mutual interaction among species may comprise most of evolution.

This is a non-Darwinian, communitarian, even cooperative observation of a constantly adjusting biosphere. It reveals myriad webs of communication, all elements perpetually responding to differences, a complex learning system threaded with self-corrective circuits. Seen through the window of co-participation, the environment, "the land", the global ecosystem is not stable in the classic sense of homeostasis but is constantly adjusting. There are no climax communities.[16.] In nature there is no hierarchy of order or value and no manipulation (management), but only continuous response to difference, continuing correction.[17.]

Gregory Bateson extended discoveries in cybernetics about human communication to the processes of evolution. Humanity and nature are "conversing systems" [18.] and co-evolve in the same context, one that is circular and recursive.[19.]

The notion of co-evolution proposes "a change in the premises of a relationship between communicating systems,"[20.] in which information about the system under study is not 'out there' in the environment. Information is constructed, and re-constructed, through a process of dialogue between system and observers."[21.] The human is participant-observer. And the human co-participates, either in a reciprocal manner (as pre-historical, "primitive" cultures) or in the current massive interventions to which the biosphere cannot quickly adjust, creating instability. Co-participation by humans in the conversation of a living system declines in proportion to their de-coupling psychically from the wild, the natural. Perhaps our closest contact with the natural universe, suggests Gary Snyder, is through language, a wild system, and our consciousness, the "territory of wildness in our minds -- the memories, emotions, images and dreams" that culture cannot tame.[22.]

The relational window on the land, revealing mind in all its elements and the conversing co-participation that makes up its dynamic nature, has a language that is decidedly non-economic and non-hierarchical. Key words include process, balance, diversity, low energy, beauty, and slowness.

- Process

All is a learning system, a continuous and dynamic interaction

and adjusting; non-linear movement that has no progress, goal, or conscious purpose; feedback and feedforward between observer and observed (observer is within the activity, affecting and affected by); time is central to the observer's relation, not independent; not dualism, neither opposition nor hierarchy of body and mind, nature and culture, male and female, but organic relatedness in a continuity of movement.

- Balance

  Dynamic equilibrium of a bewildering number of precise relationships; cosmos as balanced system and human body as imitation of cosmos; cooperation and reciprocity as characteristic, not competition (or survival of the fittest); "everything is penetrated with connectedness"[23.] in a dance or tracking of the movements of all elements.

- Diversity

  Differentness is not only interesting but essential to continuity of the ecosystem; inexhaustible variation and possibility as indicator of health of a system and safeguard against calamity to the whole.

- Low energy/high information

  A prairie or forest is an information-rich system (with enormously complex DNA instructions) sustained by the energy of interacting sunlight, electrical and chemical processes. (Human technology reverses the ratio. An example in large scale agriculture is the substitution of high-energy fossil fuel for lack of understanding of biological information, planting corn species with "computer genes."[24.])

- Beauty

  Nothing in nature is ugly, the concept of lesser aesthetic value

is inapplicable; in ecological rhythms the functional is beautiful.

- Slowness

Time-scale is extended beyond human measures to cycles of seasons, tides and moon, generations, and forest succession at a rate to permit synchronicity, regeneration, and sufficient response time to change and differences.

Above all, the relational concept has been seen as characterized by "compassion and celebration," evoking a call to name it the "original blessing tradition."[25.] Blending ancient with new scientific knowledge, especially the insights of new physics, the relational concept of "land" is biophilic and nature-centered, and thus the polar opposite of the hierarchical/economic concept. While the relational sees human and non-human as connected and in continuous process, the hierarchical stance is dominionistic and dualist in its relation to land. The concepts are mutually exclusive.

Issues from the relational or deep ecological perspective for land policy conflicts are:

1. Instability of ecological systems, created by human intervention, to which the biosphere cannot adjust quickly enough. Is this "theatre of industrial progress going to burn down"?[26.]

2. Possibility of deterring the hierarchical concept, which is the dominant, pervasive culture, through negotiation. Can negotiated compromise change anything significant?

II. Negotiation and Mediation of Environmental Issues

As awareness of the impact of human economic activities on the land has grown, so also has the use of negotiated agreements about that activity. In the early 1970's the field of dispute resolution, familiar mainly in labor relations and international conflict, emerged as a form of land use planning.[27.] Generally, its application to environmental matters has come about as a reaction to failure -- the failure of the economic market to anticipate and minimize harm to environment and people, and the failure even of protective checks on the market: zoning regulations, taxation policy, and public acquisition of land. None of these has been able to deal effectively with economic growth as it affects land. All of public policy and all planning activities accept, perpetuate, and legitimate the myth of growth whcih is central to the economic framework. The health of the economcy, meaning that growth which is believed to generate jobs and revenues, is the bottom line, and land politics is the key element in arranging that growth.[28.] In none of the public policy strategies is the land a concern in and of itself; land is a resource to be used now or later in the pursuit of economic growth. At issue is not whether land will change but the pattern and rate of its changing.

Negotiation has offered an alternative to those involved in disputes over that change in land use, whether to avoid lengthy and costly litigation, to circumvent and replace cumbersome regulatory processes, or when a situation is perceived as a violation or a danger. And, at least early on in the 1970's, negotiation appeared to be a "significant social movement." [29.] The possibility of an alternative to the more formal legal system gave the movement a populist tone. Negotiation could be potentially a tool for "access to justice for the poor, for minorities, for consumers -- for those that don't have

general access to law." [30.] Counted among these were rural people who did not want highways, waste sites, and other urban by-products in their proximity (although they may prefer urban convenience in their personal lives), and environmentalists who were becoming aware of soil erosion, quickening losses of animal and bird species, forests, water and air quality, and especially agricultural land. Negotiation thus appealed as a way to seek some relief from growth pressures for certain parts of the environment.

What is this alternative decision-making tool that has offered such promise? Negotiation is a process of face to face bargaining that results in an agreement resolving a conflict of interests. Whether labeled conflict resolution, collaborative problem solving or planning, case by case decision making, consensus process, or negotiated development, and whether it occurs early on in a process (such as application for zoning permit or filing an environmental impact report) or as a planned part of decision making, or very late in a process (as when suits are threatened), this bargaining process is and has always been the stuff of public policy making. What is new apparently is the attempt to institutionalize its dynamic and components to resolve public disputes in an era of increasing citizen concern and involvement.

The characteristics or components of negotiation are relatively simple:

1. Participation of stakeholders (representatives of interests, neither elected nor hired) who are willing to talk face to face.
2. Joint fact finding and information sharing to develop a shared view of the problem.

3. Dynamic of compromise and trading that maximizes common gain.
4. Agreement, generally written, on a consensus decision.[31.]

Mediation is the addition of a third "neutral" person to this process, whose role is to facilitate settlement. Besides being perceptive in human relations, mediators generally apply a carefully designed step-by-step plan (sometimes designed with participants' input) for generating consensus and ensuring win-win outcomes.[32.] How negotiation and mediation work and the conditions for productive bargaining, as well as issues of cost, fairness, and accountability, are subjects discussed in detail elsewhere.

Environmental dispute negotiation or mediation is a unique breed of bargaining, distinct in substance and often in form from that applied to labor, international, and interpersonal/or community disputes. Conflict over environmental issues or land use are inevitably very complex, involving not only many parties and interests of unequal power, often unidentified, but also myriad social and environmental effects or externalities. The boundaries of environmental disputes are very difficult to define. Technical data can be highly complicated and even conflicting. In many cases of environmental mediation, the settlements are not necessarily linked to formal legal or agency processes and thus their enforceability is uncertain.

Above all, the outcomes of environmental disputes often involve

irreversible effects on the land, such as toxic pollution, loss of agricultural land to construction, and destroyed forests or wetlands with consequences for soil and waters and the biological life dependent on them. Quite beyond aesthetic concerns for scene~~e~~ry or desires to preserve recreational areas, the vast majority of outcomes of environmental disputes have seious consequences for entire biospheres. Ultimately, what makes environmental disputes so complex and difficult is "the nearly inseparable conjunction of values and facts at the heart of most disputes."[34.]

For environmental mediation to result in a settlement satisfactory to participatory parties, conditions or guidelines have been observed. Talbot reports that mediation is workable for environmental issues "when a conflict matures to the point where the issues are clearly defined, the various sides perceive the existence of a balance of power, and they perceive that their objectives cannot be achieved without negotiations."[35.] Other signs of the feasibility of mediation to Talbot are when participants have an immediate interest in the outcome, the "cast of characters" who have power is small, and when the case involves a specific project or site, not broad or fundamental policy questions.[36.] Negotiation cannot, of course, be successful when a resource is considered irreplaceable by someone, that is, when it is considered non-negotiable. Is precisely this question of negotiability that stymies the environmentalist who sees through an ecological window.

## III. Conflict of Concepts: Can Ecological Issues be Negotiated?

The give-and-take nature of environmental negotiation and mediation makes it difficult for the ecologist to embrace bargaining wholeheartedly. Human altering of the ecological arrangement has already created an instability of such severity that the biosphere cannot adjust quickly enough. The evolved balance of the ecosystem may be going out of control, simply because human "alienation has allowed us to see and regard land mostly as a resource." [37.]

Seen from the ecological window, the concept of bargaining -- an economic and linear notion of compromise and exchange without "conversing" with that being bargained -- is suspicious. Trying to be realistic about the nature of two paradigms, two very real worlds, the ecologist is caught in a tension between the participatory process of negotiation and awareness of the inexorable consequences of biotic extinction, a worse threat to the future of biological life on earth than nuclear disaster.[38.] Negotiation presents therefore both problems and possibilities for the ecologist.

<u>What is wrong with negotiating environmental issues?</u>

1. <u>Negotiation as "social movement"</u> [39.]

The concept of negotiation originated in the perceived need for an alternative to judicial processes to settle human disputes. The basis for dispute resolution is the extension of rights to achieve a more egalitarian society, or to avoid lengthy court battles or regulatory processes. Its raison d'etre is for human purposes. Environmental controversies over water supplies, quality of air standards, land acquisition, forest access, coal leasing, and urban devel-

opment are "as much social and economic as they are 'environmental'."[40]

The success of environmental mediation is reckoned in satisfied human customers; and even this link "between dispute resolution and the public interest remains tentative."[41] What appears to be a dispute over land use becomes thus in reality not an 'environmental issue' but a human issue, a conflict over human interests and rights. A dispute over a waterway is really a dispute over <u>use</u> of waters -- by recreational, utility, agricultural, even conflicting environmental interests. The pure interest of the ecological workings of water is not taken into account. No one in negotiation "thinks like a river."[42]

2. <u>Conservation versus preservation</u>

A pragmatic way to contrast the economic and relational approaches to land is through their environmental goals. The environmental movement for a hundred years has been torn by the struggle between preservationists and conservationists, as exemplified in the bitter arguments of John Muir and Gifford Pinchot, whose utilitarian policies of "wise use" have triumphed. It was Pinchot, as father of the forest service, who opened the forest reserved to exploitation. Conservation holds development as its first principle. Its goal is human use of natural resources; its framework is economic and hierarchical.

Negotiation from a conservationist stance does not introduce therefore ecolocical information and advocacy. Preservation of natural diversity and a healthy environment is not an economic concern. Resource trade-offs and allowable parts of toxicity per million, while apparently reasonable compromises in an economic framework, may be dangerous environmental losses to the biota. The success rate in negotiation of preserving environments intact appears to be very low. In

all five cases described by Talbot as successful settlements, the environment lost.[43] Development and preservation are incompatible.[44] When such fundamental differences in interests are at stake, negotiation is not only unrealistic but may hinder honest confrontation.[45]

3. Ignorance

The more scientists study the biota, the greater is their awareness of its stunning complexity and how little they understand it. Not only is there inadequate comprehension of how nature works -- how elements converse, interact, evolve, and depend on one another -- but there is no reliable way to know future, long term effects of human intervention. "What humanity proposes and what nature yields in the way of information about their evolutionary processes has consequences for each other. There is, of course, a time warp in the 'conversation'."[46]

Even what little is known and inferred is almost totally unavailable to the public. Lack of an informed and ecologically aware populace makes the ecologist appear as extremist and doomsayer. Participants in negotiation are unlikely to be better informed, since evolution and ecology are not required mainstays in educational institutions. Even highly educated people are ignorant of basic evolutionary and ecological principles.

4. Seduction

There is a tendency toward cooptation in the conciliatory aspects of negotiation and mediation, whether through the congenial atmosphere, or learning that adversaries are nice people, or a weakness in the negotiating ability of environmentalists who tend not to be very "feisty."[47]

Those who have given up on conciliatory means of achieving environmental goals claim that environmentalists and planners who play a professional role in the economic, rational game set up by the corporate power structure "acquiesce in the destruction of the Earth."[48] To them political compromise is a reactive position "designed to captivate us, to make us feel as though we are influencing public policy, because ... this is their game, played by their rules."[49]

Because pro-development groups, private and public, have greater financial and political power and resources, participation in negotiation with them by environmentalists can merely give legitimacy to development in exchange for crumbs.[50] The inherent political biases in negotiation and mediation toward development and growth are derived from a society founded on the myths of economics. Ecologists cannot afford to be naive.

In addition, there arethe practical and distinctive features of negotiating environmental issues that make it difficult to manage: the indeterminate nature, boundaries, participants and costs; the claim of one or more parties to represent the public interest; and uncertain implementation of private agreements.[51]

Essentially, however, the core danger of negotiating environmental issues and land policy is that it requires political compromise on issues which are not pure economic conflicts between equally valid demands but rather what could be called moral concerns. Seen as a moral struggle, not all interests are right or legitimate. Some things in the world are non-negotiable;[52] sometimes development is not responsible and progressive but destructive. Ultimately, the problem of negotiation for ecologists is an ethical one.

What are the possibilities of negotiation?

For the pragmatic ecologist, negotiation may be one tool among many in countering hierarchical/economic progress. As a process, negotiation makes room for diversity, plurality, and alternatives, giving it potential for changing modes from the economic to the relational, from win-lose to shared responsibility, from conquest to coevolution.[53.]

The best of negotiation brings people together, face to face with their feeling and with the facts of the environment, and forces an honest engaging of fears, needs, and motives. Because a negotiation process can enable people to understand environmental issues and one another, to learn together, imagine alternatives, and work out possibilities, it even resembles coevolution. Its process of joint decision-making opens the possibility for that 'conversation' of communication and self-correction that works so well in natural systems.

If negotiation remains only within the framework of economics and rights, it does not work for the land. In its process of compromise (the economic exchange or trade-off), in its relation to a legal and regulatory system that basically must support economic growth, and especially in the control of the powerful over information, negotiation is a tool of development. But a peaceful society (at peace with the earth as well as among peoples) cannot be attained if peaceful means for resolving conflict are not avidly pursued. There need not be an exclusive definition of negotiation. If changes were made in its form, and if it furthers ecological principles even in small ways, negotiation may have some limited use as a wedge among the techniques that ecologists garner for the long haul.

## IV. "Only Justice Can Stop a Curse:"[54.] Reformulating Negotiation

Awareness of what is being lost by reasonable means (rainforests for hamburgers) can bring the ecologist to profound anger -- at the deepest form of injustice toward land and people. Yet the adversary is a consciousness of dominion and separateness that denies the Other, the composite of all realities perceived as alien. It is a consciousness (or lack of it) that cannot see ecosystems or cultural diversity, much less protect their existence.

The ecologist engaging this consciousness (perhaps also in him or herself) cannot afford to be naive. More is at stake than isolated resources. At the core of the curse of environmental loss is a split in consciousness. And those of the dominion consciousness, as Alice Walker charges, "have appointed themselves our representatives to the rest of the universe. They who have never met any new creature without exploiting, abusing, or destroying it. They who say we poor and colored and female and elderly blight neighborhoods, while they blight worlds."[55.]

This is an injustice toward both land and people; ecologists and revolutionaries are, at the heart of things, on the same side of the fence. "Oppression of people and devastation of nature go hand in hand, and the root of both of these evils is the denial of otherness. ... There is a clear relationship between the subjugation of women and the rape of nature. ... The interests of the poor and the interests of the environment are the same; the enemies of one (extravagant consumerism, aggressive individualism, heartless materialism, etc.) are the enemies of the other."[56.]

Keeping this context in mind is perhaps the primary ground rule for ecologists considering negotiation. We must know what we are about when we engage the issues of environment and land policy. The scope and substance of environmental issues is never simple, specific, and limited. No environmental problem is isolated. Each environmental dispute must be seen in context -- what it means for the land as biosphere and habitat and what it therefore means for people over time. Contrary to general advice on conditions for negotiation, what is narrowly defined, and thus seems amenable to negotiation, may be precisely what should not be negotiated.

Two questions arise about negotiating environmental issues:

1. When can negotiation serve a useful purpose from the ecological standpoint?
2. How could negotiation be formulated so that preservation of the elements of nature has a better chance?

When to negotiate

The question of when to negotiate is actually the question of what to negotiate -- an issue of substance and a problem of ethics. Aldo Leopold has provided a rule of thumb that is becoming known as the Green Rule:

> A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise. [57].

A more specific way of stating this is Robert Brothers' principle of respectful forestry. Human interaction with forest must "disrupt forest processes to an extent no greater than the ecosystem's range of tolerance, no greater than the forest's adaptive ability to respond to stress and

right the imbalance.[58] The key is respect for all the species and elements that, in their balanced interaction, maintain the stability of the ecosystem over time.

A way of applying this land ethic to the decision to negotiate might be: Negotiate when it is possible to balance specific resources and people; do not negotiate away the land.

The concept of resource is limited to utility; therefore a metal or petroleum or trees may be a resource, but not land ( and not people). Land as biosphere must be sustained and regenerated, intact and responsive over time, or it will claim us. There is no room to negotiate where interference is ignorance.

In practical terms, this means the difference between clearcutting and selective thinning (or regenerative cutting) or between large scale, high energy farming and sustainable agriculture. It means preservation not conservation; and ultimately it means less economic profit. Wes Jackson suggests that any return on investment of over 2% is at the expense of future generations.[59] Brothers, in discussing the relation of interest rates to investment in reforestation, warns that trees do not grow fast enough to provide even a 5% return, unless harvested long before maturity. Then monocultures are replanted on depleted soils, again for early harvest -- and such forests cannot be sustained.[60]

Negotiation seems futile in cases of massive (corporate or federal) intervention unless it is to buy time for organizing sufficient alliances, time, and money for a long battle. Land use which introduces toxic pollutants,

destroys the microclimate (soil-water-air-sunlight) or changes the nutrient quality of soil or the regenerative capacity of species, or otherwise interferes with the natural workings of the biosphere cannot be negotiable. This includes dams and power plants, toxic wastes, nuclear reactors, clearcutting, and any major development that clears of cements over land or threatens diversity in biological or cultural life. When the land loses, confrontation may be an important option.

On the other hand, it is perhaps a failure of imagination that causes confrontation. While uncompromising about the land itself, each issue might be studied for land capability and alternatives to the proposed use. If development were re-defined as sustainable culture instead of high technology, short term gain, there may be arrangements which would be more reciprocal between environment and human use.

Negotiations, carefully selected and strategized, may provide a forum to educate and to brainstorm and propose utterly imaginative alternatives. Especially where the conflict is between the integrity of land and the interests or deep fears of people, it is these fears that could be addressed as one of the fundamental issues. If the introduction of economic development promises jobs but threatens the environment, for example, the issue can be identified as one of ecologically responsible community investment, and re-thinking of solutions could occur.

Consideration of end-use economics and the design of resilient systems that incorporate economic development alternatives, appropriate technology, and respect for a land ethic can generate solutions that are healthier for land and people alike. Traditions and models include community land trusts, Amish farm communities, and community economic development ventures based

on the natural resources of the region.[61.] Alternatives can be found which derive from a partnership ethic,[62.] whereby humans recognize their connection with their environment.

A respectful land ethic and resilient systems that work for land and people can probably be applied only in a scale or place where people know the area because they live there. Knowledge of the life-cycle of the area and how its environment works -- its seasons, waterflow, species, and soils -- is possible at a local, even bioregional, level. Participants in negotiation over land use must "listen to the land to know its needs as a basis for respecting its nature."[63.] Out of that process of observation can come decisions for appropriate use that are not merely economic. Participation in negotiation must include these "inhabitory people" who live in the disputed area and "will fight for their lives."[64.]

Two principles in deciding when to negotiate might therefore be:

1. What works for the land works for people, or keep in mind the context.
2. Negotiate "in place," when the scale is local/bioregional.

<u>How to negotiate</u>

If the decision when to negotiate depends on an awareness of connections, designing the process of negotiation in relational terms is even more critical. The real fears and fundamental issues cannot be dealt with in the shallow framework of economics and rights.

A negotiating process that is more relational and empowers the voice of the land would also imitate the communication of natural systems. A way of conversing that takes land into account would recognize all elements, in

a dynamic that constantly changes, in which no one is objective (outside the process), and where the result is always consensual. Such a process would include the following elements:

1. A preliminary study to identify the context, the full scope, of the issue, including the impact on the biosphere and the people affected.
2. Ongoing information gathering that is folded into the process.
3. Naming of all affected parties and design of a process that takes each into account, whether in the core group or in concentric conversant circles.
4. Representation of the land by advocacy, whether through an ecological group or local spokespersons.
5. Education of all participants to the issue's complexity and impact.
6. Facilitation ("mediation") by a person or persons versed in processes of group work, feedback and self-correction, and consensual decision-making, who also educates participants to the process.
7. Ongoing mutual education, respect, and openness to understanding other ways of seeing.
8. Agreement in language that reflects an ecological way of thinking, that is, substituting the language of care, continuity, sustainability, and partnership for the economic language of use, technological improvement, progress, and resource rights.

Essential in an attempt to put negotiation into a relational mode is the problem of power. Because the interest of nature is traditionally absent from negotiation, or even a consciousness that it exists, it would take extraordinary means to enable its presence. Some possible means

include special funding (public or private) for advocacy, alliances of environmental groups, among themselves and with local interests, to organize andempower the ecological "interest," special attention to the gathering and presentation of information, especially the accessibility of technical information and persons to explain it in English, and the founding of centers for land studies with a community education mission.

Whether even a reformulated negotiation process could succeed in giving voice to the land depends ultimately as much on the rising risks and costs of high tech development as on a rising consciousness about the effect of industrial progress on land and people. World economic politics slowly reveal the high financial and human price of environmental exploitation.

Who speaks for the land speaks for all things objectified and exploited. Perhaps the timing is right, as catastrophes mount, for that voice to be heard and thus for the realization that "...only justice to every living thing (and everything is alive) will save humankind."[65]

## FOOTNOTES

1. Eastern cultures are not addressed, because if the world is destroyed it will be because of Western culture.
2. Lecture by Prof. Yi-Fu Tuan, University of Wisconsin geographer, at the Land Resources Forum, October 3, 1984.
3. Shepard, Paul, 34.
4. Monotheism, in which man created God in his image, emerged as male ascendancy was established during the transition to agricultural/ territorial culture. See Theodor Reik, The Creation of Woman.
5. Molotch, 314.
6. See Paul Shephard, Nature and Madness.
7. See Theodor Reik, The Creation of Woman and Susan Griffin, Woman and Nature.
8. See Dolores LaChapelle, "Sacred Land, Sacred Sex" quoting D.H. Lawrence.
9. J. E. Lovelock has presented the "Gaia hypothesis" to describe the unifying, global feedback loops of a self-regulating biota.
10. Snyder lecture.
11. See Gregory Bateson, Steps to an Ecology of Mind.
12. Stolz lecture.
13. Mary Catherine Bateson lecture.
14. Harries-Jones, 2.
15. Schemske lecture, quoted by Harries-Jones, 8.
16. Stolz lecture.
17. Even calamity is not "evil;" a flood merely changes conditions in an area. Diversity and time are safeguards against catastrophe to the ecosystem.
18. Harries-Jones, 13.
19. Ibid., 2.
20. Ibid., 15.
21. Ibid., 2.
22. Snyder lecture.
23. Fox lecture, quoting Hildegard of Bingen, medieval abbess.
24. Jackson, 8.
25. Fox lecture.
26. Image popularized by Eduard Kressman.
27. Mediators were used in the Snoqualmie Dam controversy in Washington in 1973.

28. Discussion in seminar on negotiation and mediation of environmental issues, Prof. Harvey Jacobs, June 25, 1985.

29. Jaffe, 4.

30. Nader, 5.

31. See L. Susskind, "Mediating Public Disputes."

32. See Carpenter and Kennedy, and Rosen.

33. See Susskind and Weinstein, McCrory, and Stulberg.

34. Susskind and Weinstein, 319.

35. Talbot, 91.

36. Talbot, 95.

37. Jackson, xiv.

38. Tinker, 29.

39.Jaffe, 4.

40. Carpenter, 149.

41. Lee, 6.

42. Worster, 56.

43. See Talbot.

44. Iltis and Bellman lectures.

45. Hartman, 205.

46. Harries-Jones, 13.

47. Amy, 6.

48. Foreman, 25.

49. Ibid.

50. Amy, 8.

51. Susskind and Weinstein, 324.

52. Amy, 17.

53. Shephard, Philip, 24.

54. Walker, 262.
55. Ibid., 265.
56. Heinegg, 324.
57. Leopold,
58. Brothers, 46.
59. Jackson lecture.
60. Brothers, 49.
61. See Ratner.
62. Ebenreck, 42.
63. Ibid., 42.
64. Snyder lecture.
65. Walker, 265.

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