VICTOR | DRIGGS

MEMORANDUM

Comparison of Wastewater Facilitation Approaches

TO: Mayor August Christensen and City of Driggs Staff

FROM: Mayor Sue Muncaster, City of Victor

DATE: October 9, 2026

SUBJECT: Comparison of Facilitation Options for Victor-Driggs Wastewater Negotiations

Purpose

To provide a concise comparison of the facilitation approaches discussed for the next phase of the Victor-Driggs wastewater negotiations: Carol Barkes / IACRM, Michael Hawash using Early Dispute Resolution (EDR), and the University of Idaho McClure Center. The approaches are materially different and may address different reasons the negotiations have stalled.

At a glance

Barkes emphasizes interests, communication, and generating workable options. EDR emphasizes issue-narrowing, sufficient information, risk analysis, and informed negotiation. McClure emphasizes neutral public-policy process design and collaborative governance. These approaches are not mutually exclusive; selected EDR tools could be incorporated into another facilitator's process.

Comparison at a Glance

Option	Core Approach	Primary Emphasis	Cost / Scope
Carol Barkes / IACRM	Future-focused, interest-based facilitation with substantial pre-work	Relationships, interests, communication, multiple options	Approx. $9,975-$11,550 total before mileage/lodging/M&IE; additional work at $400/hr
Michael Hawash / EDR	Structured Early Dispute Resolution: issues -> information -> risk -> negotiation	Factual sufficiency, BATNA/WATNA, legal and financial risk, global resolution	Preliminary estimate: 40-60 hours; roughly $15,000-$30,000 per city depending on scope
McClure Center	Neutral public-policy facilitation and collaborative process design	Multi-jurisdictional public decision-making, stakeholder process, implementation	No formal proposal reviewed; preliminary discussions suggested cost could be similar to Barkes once time/travel are included

1. Carol Barkes / Institute of Applied Conflict Resolution and Mediation

Approach. Barkes proposes a future-focused, interest-based process. Each city would first meet with her separately to clarify priorities, distinguish interests from positions, and develop several workable options. The cities would then meet in a full joint session, with a second day reserved if needed. Her method intentionally reduces the time spent revisiting historic narratives and emphasizes what each city needs from a future relationship.

Her proposal recommends about four hours of preparation with each city, one full joint day, a second day if necessary, and a written summary of agreements. Engineering and legal advisors can participate so the technical and legal expertise remains with the cities rather than the facilitator.

Advantages

- Significant mediation and Idaho public-sector experience, including city, county, state and federal entities.
- Strong pre-work with each council before bringing the cities together.

- Designed to move the discussion away from fixed positions and toward underlying interests and multiple possible solutions.
- Relatively defined scope and cost compared with a longer staged mediation process.
- Places particular emphasis on rebuilding productive communication after a long period of conflict.

Considerations

- Because the approach is intentionally future-focused, the cities would need to decide how historic financial and contractual issues are incorporated rather than simply deferred.
- Her process places less formal emphasis than EDR on quantified litigation risk, BATNA/WATNA analysis, or valuation of historic claims.
- Technical, financial and Idaho municipal-law analysis would continue to come from the cities' engineers, finance staff and legal counsel.

Cost. The proposal estimates approximately $9,975 if preparation and the joint session can be grouped into one trip, or $11,550 if separate trips are required, before mileage, lodging and meals/incidental expenses. The proposed costs are shared equally by the cities. Additional professional time is billed at $400 per hour; travel time is billed at $150 per hour.

2. Michael Hawash / Early Dispute Resolution (EDR)

Approach. EDR is a more structured and analytical process. Its four basic stages are: (1) simplify the dispute to the material issues; (2) exchange enough information to permit an informed decision ("sufficient information"); (3) conduct risk analysis, including best and worst alternatives to a negotiated agreement; and (4) negotiate from that informed position, with formal mediation as a backstop if necessary.

This approach aligns closely with the joint factual baseline already being discussed by the cities. Engineers and staff could establish the technical facts; finance staff could clarify cost categories and assumptions; legal counsel could identify the genuinely disputed interpretations of the 2011 Agreement; and each city could then assess its realistic alternatives and risks before bargaining.

Hawash was candid that he is not an Idaho municipal-law or wastewater specialist. His role would be to structure the dispute-resolution process, assess risk and help craft solutions; each city would need its own counsel available to advise on Idaho law and legal positions.

Advantages

- Creates a disciplined sequence before bargaining, reducing the risk of another marathon mediation without adequate preparation.
- Directly complements the current effort to create a joint technical factual baseline.
- Explicitly evaluates leverage, risk tolerance, litigation exposure, BATNA and WATNA before settlement decisions are made.
- Well suited to determining whether past claims and future governance need to be resolved together as part of a global agreement.
- Designed to focus the parties on the small number of material issues rather than every historic disagreement.

Considerations

- Hawash does not have specific Idaho municipal-law or wastewater experience and would rely on both cities' counsel and technical experts.
- His principal experience is commercial and business dispute resolution rather than disputes between local governments.
- The staged process is likely to involve more professional hours and a higher total facilitation cost than Barkes' initial proposal.

Cost / timing. Hawash gave a preliminary estimate of approximately 40-60 hours of work and a broad cost range of roughly $15,000-$30,000 per city, depending on the amount of background review, information exchange, negotiations and final mediation required. EDR generally aims for resolution within approximately 30-60 days, although that is an aspirational rather than fixed schedule.

3. University of Idaho McClure Center

Approach. McClure represents a public-policy facilitation model rather than traditional legal mediation. Its strength is neutral process design for public entities and stakeholders working through complex regional policy questions. It could structure joint workshops, working groups, decision points and implementation steps while keeping the councils in control of policy decisions.

Advantages

- Institutional neutrality and a public-sector / public-policy orientation.
- Experience facilitating multi-jurisdictional processes, including work involving Teton County, Idaho.

- Potentially well suited if the cities want an ongoing collaborative-governance process rather than a traditional settlement mediation.
- Could provide structure for working groups and implementation after initial policy direction is established.

Considerations

- The model appears less directly oriented toward resolving disputed contractual liabilities and historic claims; legal counsel would remain central to those issues.
- No formal proposal has been reviewed for this assignment, so scope, timing and final cost are less defined.
- Based on preliminary outreach, the cost could be similar to Barkes once time and travel are included, and the initial level of interest in this particular assignment appeared more limited.

Key Distinction Between the Approaches

Different theories of what is blocking agreement

Barkes focuses on entrenched positions, damaged communication and the need to uncover underlying interests. EDR focuses on narrowing the dispute, obtaining sufficient information and evaluating risks and alternatives before negotiating. McClure focuses on designing a credible, neutral public process for joint governmental decision-making.

Potential Hybrid

The approaches do not need to be treated as mutually exclusive. Regardless of who facilitates, the cities could agree to incorporate several EDR disciplines into the process: establish a joint factual baseline, identify the limited information needed to make decisions, distinguish facts from disputed legal interpretations, and privately evaluate each city's realistic alternatives and risks. Those tools could then support Barkes' interest-based negotiation model or a McClure-style public-policy process.

This may allow Victor and Driggs to select a facilitator based on process style and public-sector fit while still preserving the strongest analytical features of EDR.

Source / Scope Notes

Based on Carol Barkes' October 1, 2026 proposal and public-sector CV; the September conversation summary with Barkes; the conversation with Michael Hawash and the EDR Protocols supplied to the cities; and preliminary discussions regarding the McClure Center. No formal McClure proposal has been reviewed, so comments regarding its scope, cost and level of interest are preliminary.