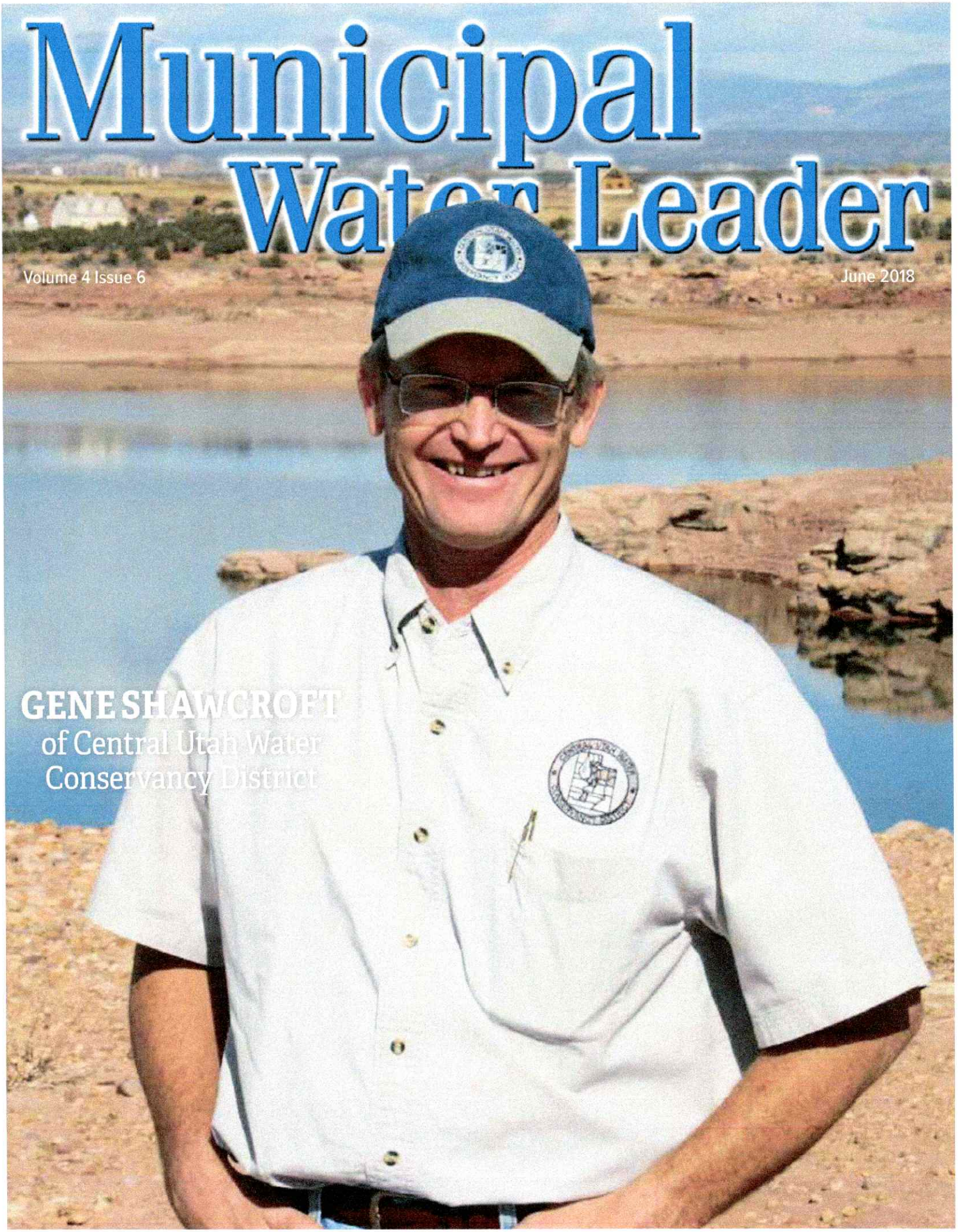
Municipal Water Leader

Volume 4 Issue 6

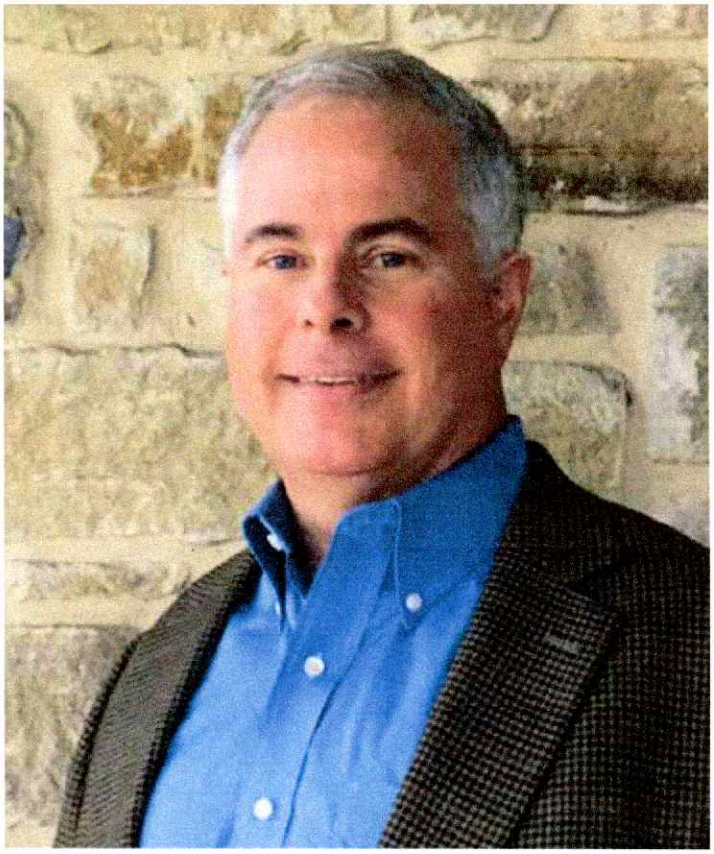
June 2018



GENE SHAWCROFT
of Central Utah Water Conservancy District

The Importance of Water Dispute Mediation in Successful Water Management:

Dr. Todd Votteler of Collaborative Water Resolution



Dr. Todd Votteler, President of Collaborative Water Resolution.

Todd H. Votteler, PhD, is president of Collaborative Water Resolution (waterdisputes.org). He is also the editor-in-chief and a cofounder of both the Texas Water Journal *and* Texas+Water. *Dr. Votteler is a fellow of the Meadows Center for Water and the Environment at Texas State University. He is also a partner of Four Worlds Partners (fourworlds.org), which is affiliated with the Oregon State University Program in Water Conflict Management and Transformation and the university's Institute for Water and Watersheds. Dr. Votteler has 30 years of experience in land and rare species management, all in the context of surface and groundwater management.*

Kris Polly, editor-in chief of Municipal Water Leader *magazine, spoke with Dr. Votteler about his career, the services that Collaborative Water Resolution offers, and water dispute resolution.*

Kris Polly: After a 30-year career in the water sector during which you worked with courts, a Texas river authority, the Texas Legislature, and Congress, you have started a new business focusing on water and environmental dispute resolution. Why dispute resolution?

Dr. Votteler: I chose dispute resolution because when I looked back on my career, I realized that what I actually spent most of my time doing was working through disputes. Whether it was the water planning process, endangered species litigation, or working with competing water interests, managing conflict was the centerpiece. When you look at the future, increasing populations and drought mean that there will be more and more water disputes.

Kris Polly: Which of your experiences with water disputes do you draw from the most?

Dr. Votteler: I served as a special master for the Federal District Court in West Texas that was handling the Endangered Species Act litigation for the Edwards Aquifer. After that, I participated in several water-related stakeholder processes. I worked with the Texas Legislature to create the Edwards Aquifer Recovery Implementation Program in 2007. In 2016, I worked with the attorney for the organization that filed the whooping crane litigation in Texas to craft an agreement to address the issues at the heart of that litigation.

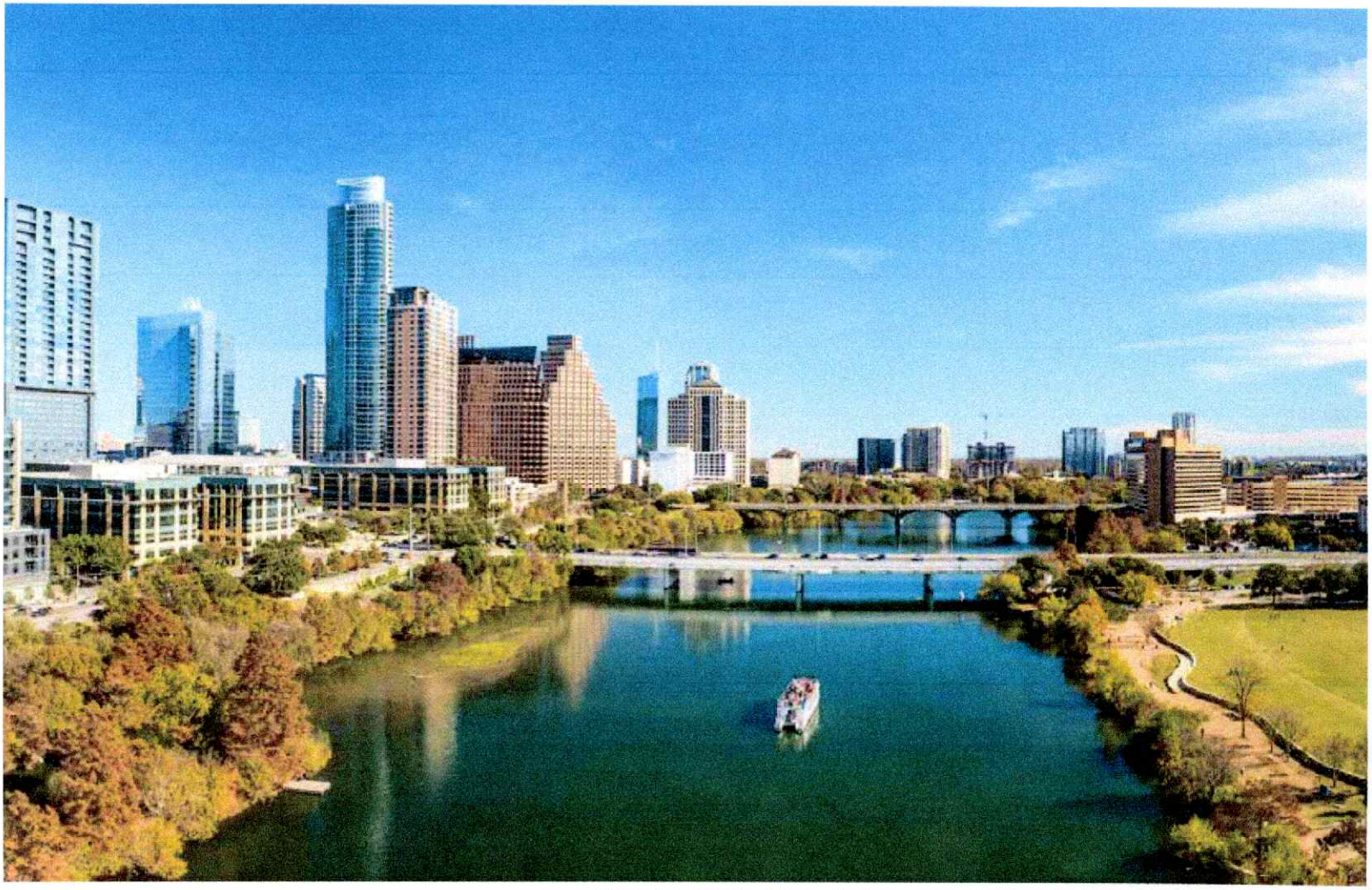
Prior to the experiences I mentioned above, I took courses on analyzing and mediating environmental disputes in graduate school, and more recently, I have participated in a number of trainings. Training and education enhance one's knowledge about water disputes, but they are not an adequate substitute. Practical experience with water disputes is irreplaceable.

Kris Polly: What type of services do you offer?

Dr. Votteler: I offer assistance with water and environmental policy issues and endangered species issues, as well as mediation, facilitation, and training through workshops. With my partners at Four Worlds, we offer training in mediation and facilitation as well as more advanced training on topics such as the ins and outs of stakeholder processes.

Kris Polly: How is your training conducted, and who should consider taking this kind of training?

PHOTO COURTESY OF TODD VOTTELER AND BY FLICKR/LARS PLOUGMANN.



View of Bouldin Creek in Austin, Texas, where Collaborative Water Resolution is located.

Dr. Votteler: We conduct training for mediation and other forms of collaborative decisionmaking through periodic workshops in different parts of the country. We can also come to clients and provide custom-tailored workshops to meet their specific needs. Dispute resolution has become nothing less than a basic skill that is required for successful water management. It is difficult to see a future in which navigating disputes is not a primary component of any water manager's responsibilities.

Kris Polly: What should every municipal water manager know about dispute resolution?

Dr. Votteler: Overall, the advantages of the collaborative mediation model over the adversarial litigation model can be summarized as follows:

- **Flexibility**—The mediation process can be adapted to meet the needs of the parties in formulating a solution. Most importantly, mediation is not conducted under a fixed set of rules, as is a case in a court of law.
- **Informality**—Mediation is an informal process that allows the parties to present their arguments without being bound by the procedures of the legal system.
- **Confidentiality**—Mediation is confidential and off the record. Mediators can meet with each party in separate and private caucus to assist them in understanding their own underlying interests and those of the other party.
- **Nonbinding**—Mediators assist the parties to reach a negotiated settlement. If the parties are not happy with the process or the outcome, they have not relinquished the right to use another dispute resolution mechanism or to go to court.
- **Time saving**—Mediation is faster than the judicial process.
- **Money saving**—Mediation is less costly than the judicial process.
- **Relationship saving**—One of the main reasons for using mediation as an alternative to litigation is to preserve and potentially improve relationships between the parties, particularly in cases where there is a need for a long-term relationship.

This final point is a key point for water entities that might be in a dispute today over a current issue but know that they will need to work with the people on the other side to create the next water supply project or accomplish some other mutual goal. Mediation creates a foundation for resuming a positive relationship after a particular issue has been resolved. M

Dr. Todd Votteler is the president of Collaborative Water Resolution. He can be reached at votteler@waterdisputes.org.