



CENTER FOR PUBLIC ENVIRONMENTAL OVERSIGHT

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Building Environmental Policy Bridges An Open Letter to the Presidential Candidates

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The last several years have been marked by a decline in the federal government's commitment to environmental protection and equally important, a hardening of the battle lines between environmental advocates and those responsible for pollution and other forms of environmental degradation. The inauguration of a new administration in 2009 presents an opportunity, not only to strengthen regulation and allocate sufficient funds to environmental programs, but also to change the way environmental disputes are resolved.

Both major presidential candidates tout their ability to create bi-partisan legislative coalitions. Indeed, the U.S. Senate's tradition of cooperating with colleagues on one issue while fighting on another is admirable. But I'm talking about something deeper in the halls of government, the use of *multi-stakeholder dialogues* to develop win-win solutions to difficult, often technical environmental problems.

A multi-stakeholder dialogue is a committee, usually advisory in its mission, which brings together multiple perspectives and interest groups, in and out of government, to address specific problems. Over the last three administrations I have participated in several such groups. I discuss below three of my most successful dialogues as the basis for the problem-solving model I recommend to the new administration.

Multi-stakeholder dialogues don't always work. Some disputes are too entrenched to solve cooperatively. Other policies are so overarching that they belong, from the start, in the hands of elected officials. But when they work, the dialogues not only establish better policies, but they spread knowledge and build the interpersonal relationships necessary to implement their findings and address other environmental challenges as they arise.

Three Examples

In the early 1990s, under both the Bush, Sr. and Clinton administrations, I was a member of the *Facilities Environmental Restoration Dialogue Committee* (FFERDC). An official federal advisory committee, FFERDC consisted of representatives of federal agencies; state, tribal, and local governments; and environmental/environmental justice organizations. Formed in 1991 to ease the increasingly contentious process of cleaning up Defense and Energy Department facilities, the Committee issued an Interim Report in February, 2003 and a Final Report in April, 2006. FFERDC was responsible for the creation of more than 300 community

advisory boards overseeing federal facility cleanup and the establishment of a process for moving cleanup programs forward even when Congress did not appropriate sufficient funds to meet legally established milestones. The FFERDC Dialogue didn't solve all the problems associated with federal facilities cleanup, but it unquestionably moved the process forward.

I was also a member of the National Dialogue on Military Munitions, established by the Army—along with the other armed services and U.S. EPA—in 1997. This body also included members from federal agencies; state, tribal, and local governments; and non-governmental organizations. By the time we finished, we produced a set of common principles that today guide the functioning of munitions ranges. The Defense Department wrote two directives based upon the Dialogue's "Principles for Sustainable Range Use/Development" *before* the group had completed its work. To my knowledge none of the participants felt that they had to abandon their own principles and objectives.

Finally, I was one of twenty-five members of the Negotiated Rulemaking Committee on All Appropriate Inquiries, which drafted the near-final federal regulation implementing the 2002 Brownfields Law's mandate for an improved process for conducting Phase 1 environmental site assessments. The Committee was made up of representatives of (or lawyers for) U.S. EPA (representing all federal agencies), state regulatory agencies, developers, lenders, environmental consultants, and environmental/ environmental justice advocacy organizations. The Committee developed a performance-based approach that insisted for the first time that gaps in site knowledge be identified, but which also relaxed requirements for redundant data collection.

Each of these three committees brought together people who had never worked together before. Their work repeatedly threatened to degenerate into irreconcilable disputes. But in the end, they made recommendations that went beyond compromise—defined as solutions that make all parties unhappy—to proposing win-win solutions. All three have had a lasting positive impact.

Lessons for Today

Numerous other multi-stakeholder dialogues have succeeded. Others have failed. Some succeeded for a while, but their issues need new attention. Based upon my experience, I suggest the following ground rules for establishing new multi-stakeholder committees to address both longstanding and emerging environmental problems. Not every ground rule applies in every situation.

1. Each committee should have a narrow, well-defined scope. It's important to attract participants who have the knowledge and focus to resolve outstanding issues.
2. Membership should be inclusive.
 - A. Diverse interests and perspectives must be at the table. Parties who are left out can easily cause trouble down the road.
 - B. Each federal agency, component, or office with a stake in the outcome must be in the room, either at the table or feeding information and ideas to their agency's lead representative.

3. Professional facilitators should be selected not just because they know how to run smooth meetings, but on the basis of their knowledge of the substance of the discussion. That understanding is not only required to lead meetings effectively, but the facilitator may be asked to draft portions of the group's written report.
4. Time must be devoted to bringing all participants up to speed and placing them on the same page. That is, each interest group should have the opportunity to offer background or bring in its own technical experts to make presentations.
5. The output—the written report—of the committee should be “owned” by all the participants. Committees that lapse into the comment-and-response pattern are less likely to operate in a problem-solving mode.
6. The goal of participants should not be to win debates or to fashion language that they can enforce on others in court. Rather, they should come up with ideas and language that their “adversaries” feel comfortable supporting or even implementing.
7. Dialogue committees are advisory. Made up, at least in part, of volunteer representatives of special interests, they should not make final decisions. But if they develop workable solutions, official decision-makers should feel comfortable endorsing their findings and recommendations.
8. Official participants are not expected to bind their agencies to the committee's positions. Rather, they are asked simply to advocate for the committee when they return to their agencies.
9. It's essential for the federal sponsors of the committee to pay the travel expenses of non-profit and non-federal governmental participants, or they usually are unable to take part. Industry representatives are usually expected to pay their own way. The committee should not, however, directly pay for the time of member participants.

Multi-stakeholder dialogue committees may develop draft regulations; joint principles, or even proposals for legislation. The key is that their goal is to find common ground. To be sure, there are issues that can only be decided through contentious Congressional votes or extended litigation, but properly constituted and supported, dialogues can keep such disputes to a minimum.

You will face many challenges when you take office. Some will demand your direct attention. Others will simply require that you allow career professionals to do their job without political intervention. But for many key issues of environmental policy, it is essential that you move quickly to create multi-stakeholders processes that inspire trust among diverse participants, not only to resolve today's environmental issues but also to set a precedent for tackling future problems as they emerge. Some people might not consider building bridges with one's adversaries as satisfying as unconditional victory, but it's the best way to protect America's environment, public health, and the future of the planet.

Sincerely,

Lenny Siegel
Executive Director