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Collaborative Approaches and Communication Skills for Addressing Water Disputes

Water Issues Education Series – No. 6

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Introduction

Water scarcity and water quality problems quickly lead to disputes that arise largely from disagreement, diverse perspectives and uncertainty regarding solutions. Water disputes also raise questions about private property rights, government intervention and the capacity of communities and individual stakeholders to effectively deliberate and resolve water disputes.

Experts anticipate that the 21st century will likely bring world-wide water disputes. Institutions are lacking or nonexistent, in some cases, to manage water disputes effectively. Some predict that water disputes could even result in armed conflict in some parts of the world. Yet, others suggest that water disputes can also serve as an “agent of co-operation” and requires determination and a commitment to collaboration in order to find efficient, equitable solutions.

Since water shortages and quality issues are likely to worsen over time, crisis management is not the answer. The U.S. Department of Interior in their report titled, *Water 2025: Preventing Crises and Conflict in the West* (1998) outline several options for addressing anticipated water conflict. These include more efficient existing water uses, cut back

and/or eliminate existing water uses, develop alternative water resources (cloud seeding and desalinization) and transfer water between existing and new uses through market based mechanisms such as water banking. Any or all of these options will require cooperation of the involved stakeholders, however, and suggest the use of collaborative processes for full participation.

In the arid west, where the Doctrine of Prior Appropriation has adjudicated water rights since the 19th century, water right holders are likely to have strong views about why they should not participate in collaborative approaches. As the number of farmers and ranchers named as defendants in water-based lawsuits increase, however, collaborative approaches to water disputes are likely to increase. Nevertheless, these are precisely the stakeholders who are likely, and understandably, to feel skeptical about such processes and perhaps powerless to affect the outcome of water disputes. To ensure effective collaborative approaches with equitable outcomes, all stakeholders must participate skillfully. This fact sheet provides a brief overview of selected collaborative approaches to water disputes and basic communication skills needed to participate in collaborative approaches.

Collaborative Approaches to Manage Water Disputes

Although litigation has become one of the most common approaches to resolving water disputes, it usually results in win-lose outcomes. Increasingly, citizens are considering collaborative approaches as an alternative. Examples include: Public Issues Education; Collaborative Learning; interest-based negotiation; Coordinated Resource Management and; public participation when federal government makes resource decisions.

Public Issues Education (P.I.E.) is designed to enhance the public's capacity to comprehend and address complex, controversial public issues effectively. The PIE approach requires a program designer/facilitator to support participants in their progression through various stages of a process to learn more about the issues underlying the dispute and to seek alternative solutions to the dispute. These stages include: issue *awareness*, citizen *involvement* to ensure inclusive and diverse input, *clarification* of the issues of concern; research and identification of potential *alternative* solutions; examination of the *consequences* of identified outcomes; *choice* of a consensus based outcome; *implementation* of the plan to achieve the outcome, and *evaluation* of the chosen outcome and implementation process.

Collaborative Learning is a framework for addressing multiparty disputes and involves meetings and field trips to encourage interested parties to debate and consider the dispute creatively using a systems approach. The approach is effective when stakeholders are affected by the situation equally but have distinctly differing views and values. Collaborative Learning requires an *assessment* to determine the potential for collaboration; *training* to develop an appreciation for collaboration; *design* to develop a flexible strategy to engage participants meaningfully; *implementation* which requires a series of live events to promote learning and idea creation, including field trips and workshops; *evaluation* that involves reflection and gathering information from participants to determine the most and least effective choices and lessons learned for future disputes.

Interest-based negotiation is a collaborative process that features three steps: pre-negotiation, negotiation and post negotiation. In the pre-negotiation, a situation assessment is conducted to determine if the conditions are appropriate to warrant moving into the negotiation step of the process. A situation assessment determines:

- parties directly or potentially involved,
- positions regarding the dispute,
- interests regarding the dispute,
- whether issues focus on substance or process or both,
- history of the dispute,
- current approaches to the dispute,
- source of parties; power and influence, and
- whether issues are negotiable and parties willing to consider compromises to resolve the dispute.

If a situation assessment indicates the conditions are ripe for negotiation, then the next step is for the relevant parties to work together to create options and secure commitment to reach a satisfying agreement to address the dispute effectively. Post-negotiation involves ratifying as well as implementing, monitoring and evaluating the agreement reached.

Coordinated Resource Management (CRM) is a voluntary, science-based process typically involving natural resource agencies, technical experts, landowners and resource users. CRM is comprised of a team of resource representatives who collaboratively creates and implements resource management plans over a large planning area. CRM has been used most often in disputes involving governmental resource agency decisions. The basic elements of CRM include: diverse participation; interest-based rather than position-based discussions; consensus decision-making focused on the collective needs of represented interests as well as technical and scientific data analyses including numerous field tours, and; commitment, resulting in a ratified management plan, to resolve the dispute and improve long-term resource management.

A defining feature of CRM is its multi-tiered representative participation and decision-making processes. This includes a *technical review team* that functions at the smallest ranch or allotment level of the dispute. These teams include technical experts, landowners, permit holders and interest groups. *Steering committees* represent multiple watersheds and similar large areas and include agencies such as Conservation Districts, Bureau of Land Management and county governments. Finally, a state executive committee is comprised of federal and state agency administrators and other top managers with decision-making authority as provided for in policies including the: Public Rangelands Improvement Act (1978); National Interagency Memorandum of Understanding (1987) and; Administrative Dispute Resolution Act (1990),

which encourages alternative dispute resolution in lieu of adjudication to resolve resource disputes.

Public participation involves gathering public comments on proposed government actions involving natural resources. Numerous federal legislative acts implemented since the 1970s require public participation, including the Federal Land Management and Planning Act and National Environmental Policy Act (NEPA). The public is invited to provide comment early in the decision-making process. NEPA in particular, requires federal agencies to follow a systematic approach to analyze environmental effects of proposed federal actions. The analysis must be interdisciplinary, including technical information about social, economic, environmental and other considerations. The analysis must involve the public and be documented as an Environmental Impact Statement (EIS) or Environmental Assessment (EA).

Basic Communication Skills Needed to Participate in Collaborative Approaches

Regardless of the particular collaborative approach taken to address water disputes, all stakeholders should have at least an awareness of basic communication skills needed to participate effectively. Often, collaborative processes fail because participants do not understand how to participate. This is especially the case in emotionally charged disputes when it is critical that participants express ideas and interests or ask questions unemotionally. Figures 1 and 2 provide a brief overview of basic communication skills necessary to participate effectively in collaborative processes. Figure 1 contrasts effective listening and speaking skills. Figure 2 illustrates the use of positive communication in managing disputes effectively.

Conclusions

Since water shortages and quality issues are likely to worsen over time, crisis management is not the answer. Since the results from litigation are often unsatisfactory, increasingly citizens are considering collaborative approaches as an alternative. Some examples include: Public Issues Education; Collaborative Learning; interest-based negotiation; Coordinated Resource Management and; public participation when federal government is involved in resource management decision-making.

In deciding which collaborative approach is the best fit, stakeholders should consider and examine the range of approaches available and what each requires for success. It is important that all participants feel comfortable with the approach in order to ensure full participation. This is especially important when unexpected developments, such as new stakeholders entering the picture or research dollars becoming available, can influence levels of trust in the process chosen. It is also essential that all stakeholders/participants have at least some awareness, if not mastery, of basic communication skills needed to participate effectively.

References

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Figure 1. Basic Communication Skills Needed to Manage Water Disputes

Effective Listening Skills

- **Stop talking**
Concentrate on what others are saying without interrupting them or changing the subject.
- **Ask questions**
Ask speakers for details or explain their ideas.
- **Understand the other person**
Review what they have said and put into your own words what you have heard.
- **Be aware of and control your emotions**
Avoid arguments, criticism and judgments.
- **Be aware of and control your body language**
Positive communication suggests that we maintain eye contact with the person who is speaking. Wandering eyes and excessive body movement generally indicates you are not listening.

Effective speaking skills

- **Speak slowly**
Present ideas one at a time, in an organized and logical manner.
- **Speak clearly**
Choose words that are meaningful for listeners and that share your feelings or ideas.
- **Be aware of your body language**
Maintain eye contact with listeners. Avoid moving around, shuffling papers or distracting listeners with excessive body movement.
- **Speak to inform... not injure**
Avoid hostile and unproductive comments about others or the situation. Show respect for others' opinions by remaining considerate with your statements about the problem.
- **Ask questions for clarification**
Ask listeners if they understand what you are saying, rather than if they agree with you.

Figure 2. Use of Positive Communication to Manage Water Disputes

Work together effectively

- **Meeting management**
Manage time allowed for meetings and problem solving activities.
- **Make a decision**
Learn when and how to close the group's discussion and come to a decision.
- **Stay focused**
Stay on task so that energy is not wasted on unrelated discussions or activities.
- **Limit your time**
Set a time limit for brainstorming ideas, discussion and investigative activities.
- **Don't judge**
Share ideas freely – don't evaluate or criticize ideas early on in the problem-solving process.
- **Track ideas**
Identify ideas that are most promising.
- **Keep a record**
Record the progress and outcomes of all cooperative activities.

Manage dispute collaboratively

- **Don't react to conflict**
Instead of behaving like an enemy, reduce angry feelings by genuinely listen to all stakeholders' sides of the issue.
- **Show compassion**
Put yourself in the shoes of others to better understand what they want and why.
- **Satisfy everyone**
Ask stakeholders who are totally against a particular solution to solve the problem so that all interests are satisfied.
- **Consider the benefits**
Review the consequences of not solving the problem.
- **Use the best information**
Always seek and use the best information available to make sound decisions rather than emotionally charged decisions.
- **Respect differences**
Recognize and accept that each stakeholder may have a different value system.