Ten Principles of Effective Dispute Management
Managing Natural Resource Disputes – No.11

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Principles are accepted rules of conduct or law. Principles can serve to establish common guidelines for right and ethical conduct. As such, principles of dispute management act as guidelines for knowledgeable, ethical conduct in managing resource disputes. For those of us who are involved in a collaborative process to manage a dispute, it is easy to fall prey to reactionary behavior. It is easy to get lost in data and technical research agendas in the hopes of finding solutions to disputes. It is easy to become obsessed with following meeting rules or getting something done to the extent of missing opportunities to share issues, learn about others’ interests, or assert your own interests. In short, it is easy to lose sight of what the original goal is of a collaborative process to manage disputes.

The ten principles of dispute management that follow provide one example of ethical guidelines for managing disputes. It is not the last word on dispute management. It serves, however, as an exemplary list of checks and balances to help you stay on course when engaging in a collaborative process to manage disputes.

TEN PRINCIPLES

Principle 1 – Natural resource disputes are a complex combination of human relationships, process, and substance. It is a common mistake to focus only on the substantive issues often ignoring human relationships and procedural details of the collaborative process. Building and maintaining positive relationships with others involved in the dispute is as important as understanding the data and technical issues associated with the problem. Procedural details comprise how the collaborative process operates. You must continually assess if the collaborative process is accomplishing prescribed and mutually agreed upon goals. You must be prepared to take steps to alter the process if goals are not being met satisfactorily.

Principle 2 - In order to find a satisfying solution you must understand the problem. This may require one-on-one discussions with individuals affected by the dispute. It may also require visits with those who are not as directly involved but perhaps more informed. Investing the time to understand the problem results in more
productive meetings designed to solve the problem.

**Principle 3 - Carefully plan your strategy and follow it through.** Heated disputes usually puts pressure on those involved to find solutions quickly. Even though these pressures may be great you must strategize a sequence of steps that will best address the situation. A standard strategy at a minimum requires participants to:

- define the problem constructively,
- determine mutually satisfying procedures to negotiate,
- identify issues and interests of those involved,
- develop options to solve the problem,
- agree on the solution, and
- decide how to implement the agreement.

**Principle 4 - You must build constructive, working relationships.** Even if the best technical experts are hired to determine possible solutions, the resulting information will not be helpful unless people can use it cooperatively. Basic criteria for cooperatively using any information include trust, information sharing, following through on resolutions, and implementing agreements. Poor communication among individuals involved in a dispute eventually lead to mistrust, polarization, and a breakdown of the collaborative process.

**Principle 5 - Negotiations begin with defining the problem.** Participants in a collaborative process must agree on a constructive definition of the problem prior to resolving the dispute. Ideally, the problem should be owned mutually by all stakeholders. Its definition should include a broad range of explicit issues and may synthesize several definitions. How a problem is framed can define the range of possible solutions.

**Principle 6 - Participants in the dispute management process should help to design that process as well as the solution.** It is common for dispute managers, technical experts, politicians, and other individuals with leadership roles in the dispute to offer solutions. Rarely are these solutions warmly received. Participants in the process must be continually involved in finding solutions, agreeing on a range of options, and building an agreement that is mutually satisfying and can be implemented. They own the problem and must create the solution.

**Principle 7 - For solutions to be lasting they must be based on interests rather than positions.** Interests define the problem. It is very common, however, for interests to gel into positions. Positions are steadfast decisions that we make based upon our interests. Positions are the trenches we dig for ourselves to remind us of what we cannot tolerate rather than what we can. Positions suggest that others’ needs are unreasonable. If positions determine the direction of the negotiations, resulting agreements are not likely to be either mutually satisfying or long lasting. In order to focus on interests rather than positions, participants should ask themselves "why" others have taken a particular position (Fisher and Ury 1983). This enables them to get closer to the underlying interests. Focusing on interests enables more options and solutions to emerge. Focusing on interests also gets to the heart of the problem.

**Principle 8 - The dispute management process must be flexible.** Keeping the process flexible does not imply it lacks structure. Any collaborative process must be carefully thought through prior to beginning it. The initial plan serves as a rough draft that provides direction but can be modified as participants and issues require.

**Principle 9 - Anticipate problems that might arise.** Even with carefully planned processes you may encounter unexpected disasters. Negotiations are naturally dynamic. It is difficult to predict exactly what will be said when. Still, having an idea of the potential problems that might occur will help you to prepare for attacks, outbursts, and suggestions to suddenly alter the agenda or change the goals of the process. Sometimes problems that arise can be used as opportunities to reshape the process if it is floundering. In this way the participants can take more ownership of the process by addressing problems as they arise.
Principle 10 - Work to help solve the problem and not to create new problems. Poorly designed and managed collaborative processes can worsen the dispute, creating more polarization, fear, tension, and related disputes. Collaborative processes must be carefully structured to manage disputes so that key interests are involved, the problem is constructively defined, education and issue sharing occur, and relationships are nurtured. Yet, the process must remain flexible enough to constructively meet unexpected issues and complications as they arise.

Other Guidelines

The ten principles presented are helpful guidelines to follow in structuring a collaborative process to effectively manage disputes. If the process is already underway, these principles can serve as a system of checks and balances to fine-tune procedures, correct problems, and improve communication.

Some additional guidelines to follow to achieve effective dispute management include:

- educate all participants on the steps of the collaborative process;
- jointly design agendas and procedural rules to make each meeting effective and productive;
- help participants establish predictable, efficient means of communication during meetings and between meetings;
- allow adequate time between meetings for participants to meet with their constituents;
- make the decision making process clear to participants;
- share new information;
- if necessary break the problem into smaller solvable pieces
- acknowledge value differences
- be inclusive in involving all potentially affected individuals;
- engage in joint fact finding;
- keep the public informed; and
- maintain a good, working relationship with the press.

A final and important rule of thumb is if you need help in managing the dispute, structuring a process, or participating, ask for help (Carpenter and Kennedy 1988). Natural resource disputes are complex. Collaborative processes to manage resource disputes require knowledge, technical support, and stamina. It is not uncommon for participants engaged in a collaborative process to seek help from outside the process in order to improve it.

REFERENCES

