Step 3: Post-Negotiations
Managing Natural Resource Disputes – No. 4

Ann Ball, Special Assistant to the Regional Director, U. S. Bureau of Reclamation
Marlene Rebori, Community Development Specialist, Western Area
Loretta Singletary, Extension Educator, Central Area

The major activities in the post-negotiation step are implementation and monitoring.

**implementation**

**Implementation** involves assuring that the provisions of the agreement are carried out. Responsibility for implementation can take on many forms. For example, responsibility can be assigned to:

- The parties involved in the negotiation
- A party that was not part of the negotiation
- An existing government agency
- A new group created for the sole purpose of implementation

Often people who were involved in negotiating the agreement are not the same people assigned with implementing the agreement. Consequently, problems may arise because those assigned with implementation do not have a shared history or understanding of the terms of the agreement. To assure a smooth transition, involve those who will be responsible for implementation as early as possible in the negotiation. Ideally, a few of the original participants in the negotiation should be involved in the implementation.

Implementation may require a law, or a legally binding contract, or administrative action taken by a governmental agency. Each situation will be unique. However, it is important to anticipate the issues associated with implementation and work out the details during the negotiation step. **Implementation is the point where collaborative processes are especially susceptible to collapse** (Gray 1989, p.92).
Monitoring involves keeping track of **compliance** and evaluating the **outcome**. Monitoring addresses the questions:

- "Are the parties living up to their commitments?"
- "Is the agreement producing the desired outcome?"

The first question addresses compliance. What happens if a party breaches its commitment to the agreement?

Noncompliance may occur willfully or, more likely it will reflect a differing interpretation of a provision of the agreement. It is often said that within any agreement lie the seeds to the next disagreement. No matter how finely crafted, you can expect there will be disagreement over the intent and language of the agreement.

The issue of compliance is often difficult to broach. It may suggest lack of trust and dampen the good feeling associated with the collaborative effort. Nevertheless, distrust is a major factor in many natural resource conflicts. It should not be denied or ignored. In addition, even if good faith efforts have been made throughout the collaborative process, parties may not always follow through on their commitments. Reasons for not following through may include policy changes, new personnel, scarce funding, or other obstacles that were not anticipated in the negotiation.

The second question addresses whether or not the anticipated outcome is being achieved. This question breed additional questions such as:

- Is the implementation of the agreement contributing to the recovery of an endangered species?
- Are the economic and cultural values of a rural community being preserved?
- Are there unintended consequences occurring that lead to a new set of issues?

These questions and others like them reflect the fundamental interests of the parties involved in the agreement. The parties expect their interests to be met. They enter into the agreement with reasonable expectation that this will be the case.

However, with natural resource agreements there are no guarantees. Natural resource systems are extremely complex and dynamic. Our ability to predict the outcome of a change in management of a natural resource is limited. We lack full knowledge about the natural resource system and, in some cases, we are limited by current measurement technology.

Monitoring the results of the agreement can be very complex and costly. Monitoring may involve establishing an extensive data collection and analysis system. It may take many years to detect the results of the agreement. This can breed many more questions such as:

- What happens if the expected beneficial outcomes do not come to pass?
- What if there are unanticipated negative outcomes?
- How will these issues be addressed?
EFFECTIVE AGREEMENTS

Effective agreements must anticipate the future. They must address what happens if there are disagreements concerning implementation and what happens if the expected outcome does not occur. Hence, they must allow the conflict management process to remain flexible and functioning after the agreement is reached.

Flexibility can be achieved, for example, by incorporating provisions in the agreement that provide for dispute resolution procedures and periodic review of results. The agreements must also provide a way to maintain an on-going relationship among the parties. This is especially important in natural resource conflicts where groups often continue to maintain an on-going relationship with the resource but not necessarily with each other due to large geographic areas separating people in some disputes.

RE-NEGOTIATE?

Some agreements provide a provision for renegotiating all or part of the agreement in the event something goes wrong. Re-negotiation could be limited to situations where there is an apparent violation of the terms of the agreement. Or it could be used if a party feels its interests are being threatened because expected results do not come about or unanticipated consequences result (Rubin 1995).

Creating an opportunity for bringing the parties together to revisit the agreement or parts of the agreement, reconvening, makes good sense. Much time and energy has been put into reaching the agreement. The parties should be concerned with trying to hold it together should something go awry. Even if implementation of the agreement is going well, it is a good idea to reconvene on a regular basis to exchange information, celebrate success and address any new issues that might arise. At a minimum, maintaining relationships are at stake. A commitment to collaboration is a commitment to meeting the needs of all the parties, not just our own.

To Collaborate or not to collaborate –

that is the question

By any measure, engaging in a collaborative process that involves a dispute over a natural resource can be a major undertaking. Depending on the complexity and scope of the issues, number of interests, the history of the conflict and the relationships among the parties, reaching agreement can take years and can be very costly. This is not to mention the emotional tax placed on the participants. And in the end there is no guarantee that agreement will be reached or successfully implemented.

In the fact sheet series Dealing with Natural Resource Disputes we have guided you through a three-step process citing certain activities that predictably occur during each step (fact sheet numbers 1, 2, 3 and 4). By now you are probably wondering whether or not it is safe to proceed.

Whether you decide to go or stay, it is important to face such an important decision with as much information and understanding as possible. You will want to make your decision wisely. The next two Fact Sheets (numbers 5 and 6) in this series will help you evaluate your group's readiness.
REFERENCES


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