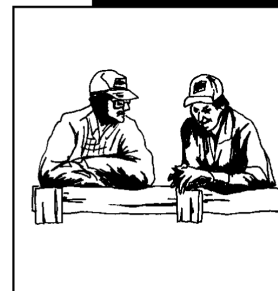
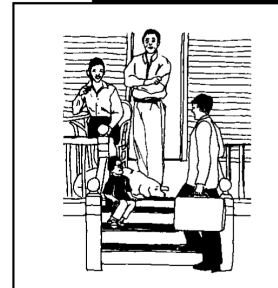




Evaluation Report on the Pine Street Barge Canal Coordinating Council, Burlington, VT:

Lessons Learned from this Region 1 Community Advisory Group



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July 2000

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Background

The Pine Street Barge Canal Coordinating Council is an 11-member Community Advisory Group formed in 1993 to address the complex issues regarding cleanup of the Pine Street Barge Canal Superfund site in Burlington, Vermont. The group includes a cross-section of stakeholders—citizens, environmental groups, potentially responsible parties (PRPs), the City of Burlington, State of Vermont, EPA, and the U.S. Fish and Wildlife Service. It was established in response to nearly unanimous community opposition to the original remedy proposed by EPA in 1992, which was withdrawn in 1993. Working as an EPA pilot project for more effective community involvement, the group planned additional studies to fill data gaps and recommended a final cleanup remedy to the EPA in 1998. (A copy of the Cleanup Plan Proposed for the Pine Street Barge Canal Superfund Site, May 1998, is included as Appendix A). EPA accepted the Council's recommendations and released a cleanup proposal for public comment in June 1998. A Record of Decision containing the remedy recommended by the Coordinating Council was signed on September 29, 1998. The remedy is expected to be implemented by the potentially responsible parties during the year 2000 field season.

Evaluation Methodology

EPA contacted members of the Coordinating Council by letter to invite them to contribute to an evaluation of the Coordinating Council by participating in telephone interviews conducted by a contractor. The contractor then contacted members by telephone to schedule interviews with those who wished to participate in the review. This report is based on telephone interviews with the following Council members: George Desch, Vermont Department of Environmental Conservation; Karen Lumino, Ross Gilleland, Margery Adams, Sheila Eckman, U.S. Environmental Protection Agency; Marty Feldman, Pine Street Arts & Business Council; William Howland, Lake Champlain Committee; Gary Kjelleren, Potentially Responsible Party (PRP); and Philip Harter, Facilitator. At the request of several participants, comments are summarized here without attribution.

Council Formation and Organization

The Pine Street Barge Canal Coordinating Committee was formed in 1993 after EPA's proposed \$50 million cleanup plan for the site was met with strong and widespread opposition from community stakeholders and potentially responsible parties. EPA extended the public comment period on the proposed plan, and, in response to those comments, decided to withdraw it. According to EPA and community representatives interviewed for this evaluation, community and environmental groups, led by the Lake Champlain Committee, and PRP representatives met informally during the summer of 1992 following release of EPA's proposed cleanup plan. At their invitation, representatives of EPA and the State of Vermont also regularly attended the meetings. At EPA's suggestion, the group decided to coalesce and to establish a formal organization in Fall 1993, under the condition that it include broad representation from all stakeholder interests, and that it meet under the direction of a neutral facilitator who would be retained under EPA's alternate dispute resolution (ADR) contract.

Under the direction of a neutral facilitator, the group began by defining a decisionmaking process. They spent about a year developing a goal for the organization and a set of standard operating procedures, or "organizational protocols" to guide their deliberations. According to this document, the stated goal of the Council was "to reach consensus on the scope of work for further studies of the Pine Street site, recommendation of a remedy that is both acceptable to the community and satisfies EPA's and the State of Vermont's statutory and regulatory obligations, and such other subjects as the Council may by consensus agree to consider." The *Organizational Protocols* also defined Council participants, the decisionmaking process, and the form that agreements would take; outlined procedures for meetings, caucus deliberations, and the role of the facilitator; and put into writing that all parties agreed to act in good faith in all aspects of the discussions, and would not characterize or make public comments regarding the position of any other member of the council. However, the *Organizational Protocols* never were signed and formally adopted by the Council. While they agreed that the protocols were consulted only rarely during the course of Council deliberations, some of the Council members interviewed said these principles nonetheless guided the conduct of Council business, while others thought, in retrospect, that the agreements should have been adhered to more stringently. (A copy of the *Organizational Protocols* is included as Appendix B).

The Council organized itself into caucuses representing each segment or "wedge" of stakeholders (*i.e.* community, PRPs, regulators), and invited any parties that would be significantly affected by decisions or agreements made by the Council to join with other allied interests to form a caucus to be represented by one or more individuals. Work was accomplished via four subcommittees focusing on major site issues: Ecological Risk, Contaminant Fate and Transport, Human Health Risk, and Community Involvement. Participants agreed that the subcommittee system worked extremely well and allowed the Council to tackle in depth a variety of complex technical issues that probably could not have been as efficiently addressed by the full Council.

Council Meetings and Community Outreach

In general, community and PRP representatives interviewed felt that the Council was broadly representative of the community and that the Council did a good job of reaching out to the community at-large. EPA staff were less confident that the Council was fully representative of all interests, but could not cite groups they thought had been left out of the process.

The Council met on a regular basis throughout its five-year history; twice a month at first, and then on a monthly basis. All meetings were open to the public and citizens were encouraged to express their views. All upcoming meetings were announced in the local newspaper, and, while attendance by the public at-large varied according to site events and the issues being addressed, there were several citizens in attendance at most Council meetings. The Council's deliberations also were widely reported in the *Burlington Free Press*, and many meetings were broadcast on the local cable system's public access channel. In addition to public meetings and media coverage, Council members reported on a regular basis to their "wedge" or constituency by disseminating information from the Council at meetings of other community groups and gathering their input and feedback for the Council. A Council newsletter also was published on a periodic basis. Whenever a specific benchmark or important decision was reached (a decision to conduct additional studies, or when results were available, for example), the Council made a special effort to get the word out to the public at-large through local media. In general, EPA and State staff thought community outreach could have been more organized and aggressive. (Copies of the Council's press releases, *Progress Update* newsletters, EPA press releases, and press coverage clippings are included as Appendix C).

Third-Party Neutral Facilitation

From the start, the group met under the direction of a neutral third-party facilitator hired by EPA. EPA staff said that they originally proposed that a mediator be hired to guide the group, but community representatives wanted the group to be guided by a facilitator, rather than a mediator. EPA identified and retained an individual with mediation and facilitation experience who also had experience working with environmental issues in the State of Vermont.

Everyone interviewed agreed that facilitation was extremely valuable to the Council's decisionmaking process, and the Council would not have been able to operate had it not been guided by a neutral third-party. They praised the facilitator's skill conducting the preliminary needs assessment, identifying a broad array of stakeholders that needed to be represented, guiding the organizational process, and working with individual caucuses behind-the-scenes when internal issues threatened to derail progress in the Council as a

whole. However, several people noted that the skills and style of the individual who acted as facilitator may not have been well-suited to this particular group. They said he was more at home in the “mediator” role at times, which limited his effectiveness as a facilitator. Several members expressed frustration at his facilitation style, particularly his refusal to develop agendas in advance of meetings or to write on flip charts, and his inability or unwillingness to keep meetings on-agenda and discussions on track or to bring closure to issues before moving on.

While frustration with the facilitator surfaced early in the process, community members interviewed for the evaluation said that the group was reluctant by then to “change horses in mid-stream.” They suggested that next time, EPA allow a group to interview facilitator candidates rather than accept someone already hired to do the job. EPA representatives also said that it may have been worthwhile to change facilitators after the group had gotten through the convening stage, even if the process was slowed down a bit while a new facilitator was brought up to speed. They suggested that in future cases, it may make sense to hire one individual to facilitate the convening stage and another person to act as facilitator for meetings once the organization is fully established.

Technical Assistance

The Pine Street Barge Canal is a technically complex site, and public opposition to EPA’s first proposed remedy hinged in large part on technical issues related to gaps in data collected at the site. For this reason, understanding complex data and technical issues was critical for meaningful community involvement. The Council spent much of its time analyzing data and conferring with technical experts from EPA and the PRP group. Community representatives said they had all the technical assistance they needed because the group received a Technical Assistance Grant (TAG) from EPA that allowed them to hire their own technical advisor to analyze site data. One of the community members interviewed said the TAG was critical because it enabled the community to be an equal player in deliberations on technical issues.

Consensus and the Decisionmaking Process

Everyone interviewed for this evaluation agreed that the decision to work by consensus was “a given” from the start, and that although working by consensus often was slow and frustrating for participants, it probably was the only way the group could have reached an agreement acceptable to all parties involved. According to the *Organizational Protocols*, the Council defined consensus as “...the decisions are made only with the concurrence of all members present at the meeting where the issue is considered.”

According to one community member, the process encouraged participants to listen and to talk openly and left no room for dogmatic responses. Evaluation participants emphasized that consensus worked only because everyone involved was fully committed

to reaching agreement, and because the membership of the Council was steady throughout the process. In fact, virtually everyone who sat on the Council at the start stayed active throughout the five-year process. It was frequent turnover in EPA staff that most often was cited as problematic. Not only did it take time to bring a new Council member “up to speed” on site issues, it was necessary to educate him or her about the consensus process. Evaluation participants expressed frustration that new EPA staff sometimes were not as invested in, or—at least initially—did not seem to be as committed to, the consensus process as were their predecessors.

Council members praised EPA staff for their commitment to the consensus process and for their flexibility and diligence in making the process work in the context of a regulatory role that they recognized often was not conducive to consensus-based decisionmaking. They also recognized that the Council was forging new ground through its involvement in the Superfund program decisionmaking process. This understanding was codified in the *Organizational Protocols*, which state: “...it is EPA’s sole responsibility to make various decisions under CERCLA. Any final agreement of the Council represents a good faith statement of the action that EPA intends to take, and not the final Agency decision on the matter. EPA intends to make its final decisions in a manner consistent with the final agreements of the Council, subject to its legal obligations and any limitations on its discretion imposed by law.” (Also, see “Participant Competencies in Deliberative Discourse: Cases of Collaborative Decision-Making in the Superfund Program,” an abstract of a study of the decision making process used by communities at two Superfund sites, including the Pine Street Barge Canal site, which is included as Appendix D).

Effectiveness and Outcomes

While EPA held regular public meetings prior to issuing its first \$50 million cleanup plan in 1992, community interest in the site apparently lay dormant until the EPA announced the proposed remedy. The Pine Street Barge Canal Coordinating Committee provided a mechanism for active community involvement in decisionmaking that led to development and acceptance of a far less costly and less intrusive alternative that won support from all stakeholder groups in the community.

The Record of Decision (ROD) signed on September 29, 1998 contains a \$4.3 million remedy that includes placement of a cap on the contaminated canal and wetland sediments and institutional controls for the most contaminated parts of the site, as well as monitoring and five-year reviews. In an agreement independent of the ROD, PRPs agreed to undertake a series of additional projects valued at \$3 million to improve the environment in the greater Burlington area. Participants in the evaluation agreed that the additional projects became a key to acceptance of the plan by the community members on the Council.

There is no doubt that release of EPA’s first proposed cleanup plan in 1992 left the

Agency's credibility with the community in tatters, nor is there any question that the relationship between EPA and the community improved dramatically through its work with the Pine Street Barge Canal Coordinating Council. Community members were unanimous in their praise of the dedication, skill, and commitment of EPA Region 1, particularly Agency staff who participated in the Council at various points in the process. They said that they and the community at-large now consider EPA to be a responsive partner willing to listen to the community and work together to find mutually beneficial solutions to environmental problems.

Summary

The major points raised in telephone interviews with participants in the evaluation of the Pine Street Barge Canal Coordinating Council included the following:

- Community advisory groups can help organize community involvement in decisionmaking that often is essential to winning public support for cleanup plans at some Superfund sites. Even though EPA held public meetings prior to issuing its 1992 cleanup plan for the Pine Street Barge Canal site, community interest and opposition apparently lay dormant until it was released. Community acceptance of a remedy was gained only after stakeholders became actively involved in decisionmaking through the Coordinating Council.
- Participants were satisfied with the role EPA played in the Council's formation and operation. EPA encouraged the group to organize formally and to have a broadly representative membership. EPA also provided for neutral third-party facilitation of the group. However, evaluation participants from the community said that EPA's most important contribution to the Council was the "good faith" the Agency brought to the table.
- The group's technical assistance grant (TAG) from EPA allowed them to hire a technical advisor to analyze site data. Having a TAG was critical because it enabled the community to participate in discussions on technical issues "on a level playing field" with the regulatory agencies and with PRPs.
- While most community advisory groups do not operate by consensus, members of the Pine Street Barge Canal Coordinating Committee were sure that consensus-based decisionmaking was the only way an agreement could have been reached at the Pine Street site.
- All participants in evaluation interviews agreed that, although the consensus-based decisionmaking process was very costly and time- and resource-intensive, the benefits to the community outweighed these additional costs. The community was empowered by becoming a partner in decisionmaking at the site and the community agreed on a remedy acceptable to all parties.
- Consensus-based decisionmaking is time consuming and resource intensive and

is appropriate only in special circumstances. Several factors specific to the Pine Street Barge Canal site may have made consensus-based decisionmaking the appropriate choice for the Coordinating Council, including the following:

- All segments of the community were united in opposition to EPA's first proposed cleanup plan.
 - The community included an unusual coalition of community groups, environmental groups, and potentially responsible parties.
 - PRPs at the site were local companies with ties to the community and who could make their own decisions based entirely on site issues.
 - The idea of consensus-based decisionmaking is a natural extension of the New England Town Meeting concept that is part of the prevailing tradition and culture of the community.
- In addition to site-specific factors that made consensus-based decisionmaking a good fit for the Pine Street site, other essential factors also were present. Most important were the following:
- All Council members were fully committed to the same goal: reaching a mutually acceptable agreement and remedy.
 - There was virtually no turnover in Council membership over the five-years the Council met. Members remained committed to the Council's overall goal and to the consensus process. Stability in Council membership allowed members to build trusting relationships that enabled them to reach agreement.
- Council members said frequent turnover in EPA staff was frustrating. Not only did it take time to bring a new Council member "up to speed" on site issues, but new EPA staff sometimes were not as invested in, or did not seem to be as committed to, the consensus process as were their predecessors.
- Neutral third-party facilitation was essential to guide deliberations of the community advisory group at this contentious site, where multiple segments of the community and of the regulatory community were present at the table.
- The experience of the Pine Street Coordinating Council prompted members to offer several suggestions to EPA when considering the use of a contractor to provide facilitation services to a community advisory group. These include:
- Carefully consider whether you need someone to fulfill the role of "mediator" or "facilitator" and choose a candidate with that specific skill. Be clear about which role you expect the individual to play.
 - A skilled facilitator will prepare agendas, keep meetings on-agenda and discussions on track, record important points and decisions for participants, and help the group resolve conflicts that arise and to come to closure on important issues and milestones during the process of reaching its goals.

- One size does not fit all. Make an effort to ensure that style and personality of the facilitator is appropriate for the group. If possible, allow the community to interview more than one candidate so they can choose someone with whom they are comfortable.
 - In some cases, it may be best to hire one individual to facilitate the convening of the organization and another person to act as facilitator for meetings once the organization is under way.
 - Don't be afraid to change facilitators if it becomes apparent that the fit between the facilitator and the group is not a good one.
-
- Even though the Pine Street Canal Barge Coordinating Council's *Operational Protocols* were consulted infrequently during the course of Council deliberations, reaching agreement on a Council goal and a set of standard operating procedures was an important first step that guided the Council as it worked through contentious issues throughout the process.
 - The Council did not have a specific procedure for resolving conflicts that arose within the group. Some of the people interviewed said that often unresolved conflicts simply faded away over time. However, the lack of closure on other issues allowed conflicts to fester and may have helped lengthen the time it took for the Council to finish its work.
 - One participant noted that the Council rarely marked or celebrated important milestones and accomplishments in a formal way, and suggested that doing so may have helped the group share a greater sense of accomplishment at important points during its long history. He asked if it was too late for the group to reconvene to celebrate achievement of its ultimate goal.