

US EPA ARCHIVE DOCUMENT

EPA'S COLLABORATION NETWORK NEWS



"Public Involvement brings the pieces together"

Spring 2009

Welcome to the fourteenth volume of *Network News*! The new administration is underway in the midst of severe global economic flux. During these times, our work reminds us how it is possible to maintain civil dialogue and rational decision making under historically unprecedented conditions.

In this issue, you will find information about EPA's recent proposed finding that greenhouse gases are detrimental to human health. Also included are items about state and federal legislation promoting transparency and collaboration in government, including New Mexico's State-Tribal Collaboration Act and the Plain Writing Act currently in the House of Representatives. One feature, a summary of a new report by Public Agenda, entitled "The Energy Learning Curve", provides learning points for those invested in the advancement of public knowledge and participation efforts aimed at solving the nation's energy challenges. Another article reports some of the activities around President Obama's Open Government Initiative. The feature "Rally 'Round the Creek" offers a look at the key role Montana's citizens are playing in the clean-up of local Superfund sites.

The final feature is all about apologies. We hope you'll find it helpful. If not, we're sorry!

Pat and Leanne

In This Issue:

- Read about EPA's historic finding that greenhouse gases pose a threat to human health
- Review a summary and findings of Public Agenda's new report, "The Energy Learning Curve"
- Read about the State-Tribal Collaboration Act recently passed by New Mexico and the Plain Writing Act up for a vote in the House of Representatives
- Learn about the efforts of Montana citizens working to clean up the nation's largest Superfund area
- Find out what's been going on re: developing ideas for consideration in developing the Open Government Directive
- Learn when and how to apologize effectively and when might doing so backfire? Read on!

Events:



No Better Time: Promising Opportunities in Deliberative Democracy for Educators and Practitioners - July 8-11, Durham, NH The Democracy Initiative & Deliberative Democracy Consortium) <http://www.unh.edu/democracy/conference2009.html> are sponsoring this event at the University of New Hampshire July 8-11 in Durham. Learn about and share your ideas for teaching, research and citizen-centered deliberative democracy. Over the last fifteen years, shifts in citizen capacities and attitudes have led to a dramatic proliferation of citizen participation and deliberative practices, and in 2008 they helped to produce an historic presidential election. On the heels of these changes, new opportunities for educators and practitioners are emerging in communities, in government, and on campuses. The primary goal of No Better Time is to take stock of these developments and to consider future directions for educators and practitioners in teaching, research, and in citizen-centered initiatives.

2009 U.S. EPA Community Involvement Training Conference – August 18-20, Seattle, WA EPA is proud to sponsor the 2009 Community Involvement Training Conference (CI Conference), “Reaching Across Boundaries: Sharing Challenges and Opportunities.” The CI Conference is an exceptional opportunity to network with and learn new skills from other public involvement practitioners across all levels government!

Conference Information

Who Should Attend: EPA staff and federal, tribal, state, and local agency partners who plan and implement environmental community involvement, partnership, outreach and educational programs.

Why Attend: The conference is one of the few Agency events where staff can network, hone existing skills and learn new skills from outreach, education and community involvement practitioners across the US.

Presentation Types and Topics: The conference will be structured with concurrent ninety-minute informational sessions on Tuesday and Wednesday morning and with concurrent three- to seven-hour training courses Tuesday and Wednesday afternoon and all day Thursday. In keeping with our conference theme, presentations and training will focus on challenges and opportunities within one of the following "boundaries":

Communications Boundaries - communicating effectively to reduce boundaries related to language, cultural, social, and economic issues; communicating scientific/technical concepts; using social media; planning for and facilitating dialogue to build consensus or to continue the participation process

Institutional/Organizational Boundaries - working across federal, state, and local programs through partnerships, collaborative efforts, and agreements; coordinating and cooperating with other nations; addressing program-specific challenges and opportunities

Behavioral and Emotional Boundaries - resolving conflict; modifying/changing behaviors as they relate to human health and environmental issues; understanding group dynamics

Registration and Website: Conference registration is expected to open on or around June 1, 2009. Register and learn more about the CI Conference at: <http://www.epa.gov/ciconference>

2009 ACR Environment and Public Policy Conference and Pre-Conference

Mentoring Workshop: Managing Climate Change through Collaborative Governance: Addressing Policy Challenges Globally and Locally at the University of Denver, June 11-13, 2009. The event is cosponsored by the Association for Conflict Resolution – Environment and Public Policy Section and University of Denver Conflict Resolution Institute.

Local communities, regions, states, and national governments are increasingly confronted with the causes, consequences, and conflicts of climate change. Addressing these challenges can be daunting. It requires us to develop, articulate and facilitate broad-scale change, in the face of significant conflicts over values, interests and uncertainty. Collaborative governance approaches have already demonstrated a powerful capacity for promoting sustainability and addressing other environmental challenges. This conference will focus on ways to engage citizens and organizations to confront the vulnerabilities and challenges as well as leverage the opportunities associated with global climate change.

Presenters and participants will include leading practitioners of environmental conflict resolution and collaborative governance; community and business leaders; scientists; and elected officials and staff from all levels of government. Conference goals include sharing knowledge, lessons learned, and transferable models, and exploration of innovative new strategies to further the use of consensus-building, collaboration, and conflict resolution to address climate change. The gathering is intended to serve not just as a stand-alone event, but also as the foundation and catalyst for establishing new collaborative efforts to address this global imperative.

Concurrent sessions will focus on emerging best practices as they pertain to the field of environmental conflict resolution in general. The conference will bring together practitioners with a broad range of experience to explore how we might best address community-wide and regional conflicts which involve a broad spectrum of citizens and interest groups, long timeframes, and high levels of complexity, interaction and uncertainty.

For full conference information and to register, go to www.du.edu/con-res/center/June2009ConferenceEPP.html. For information on the free mentoring workshop, go to <http://www.du.edu/con-res/June2009Workshop.html>



Practical Methods in Community Inquiry: Participatory Research: What is it? Why is it? How Can It Work in Environmental Decision Making Processes? This event will be held May 27 and 28, in Portland, OR. The Participatory Research Workshop is sponsored by the US Forest Service – Pacific Northwest Research Station and organized by the Economics for Peace Institute.

Participatory Research or PAR can improve collaborative governance and planning outcomes. The downloadable invitation [below] presents the purpose of the nationally-invited workshop and describes the 2-day program of training and exchange [below]. Registration is available on line at <http://www.westernforestry.org>. The registration fee is \$250.00 if received by May 18, 2009 or \$295.00 if received after May 18, 2009. With registration, participants will receive a spiral bound PAR workbook with reference reading.

Any questions or suggestions? Please contact: Myriem - myriem@econ4peace.org – 970 422 4220 or Linda - lkruger@fs.fed.us – 907 586 8811 ext. 228

[May 27 and 28 Workshop Invitation](#) [May 27 and 28 Workshop Program](#)

What's New?

EPA Launches Science Notebook Web page

We are excited to announce the launch of the Agency's new Science Notebook Web page. The Science Notebook will showcase EPA science and scientists using assorted multi-media and Web 2.0 options such as science blogs, podcasts, videos, interviews and more. A scientist's notebook is home to ideas, questions, drawings and data and offers a treasure trove of information about the scientific process. EPA's Science Notebook page presents a similar view into science at EPA making our world class

scientists and their research more accessible, understandable and interesting to the public.

www.epa.gov/sciencenotebook

Our goal is to create a multi-purpose page where:

- The public can learn about science at EPA using assorted multi-media tools
- Students can gain a better understanding of science careers at EPA
- Scientists can proudly present their work in a dynamic and interactive setting

Be sure to contact Dr. Dale Haroski (haroski.dale@epa.gov), Science Advisor to the Office of Public Affairs, with any ideas you might have for future Notebook content.

“Plain Writing Act of 2009” Introduced in Senate

On April 1, 2009, the Plain Writing Act (S. 574) cleared the Senate’s Homeland Security and Governmental Affairs Committee. The purpose of the bill, which was sponsored by Senator Daniel Akaka, D-Hawaii, is to “improve the effectiveness and accountability of Federal agencies to the public by promoting clear Government communication that the public can understand and use.” Other sponsors of the bill include Senators Voinovich, Carper, Levin, McCaskill, Tester, and Collins. [Rep. Bruce Braley, D-Iowa, introduced similar legislation, HR 946, in the House of Representatives on February 10, 2009. As of April 23, the Committee on Oversight and Government Reform had taken no action.]

If enacted, the bill would require that within one year all new or revised government documents use writing that is “clear, concise, well-organized, and follows other best practices of plain writing.” Sen. Akaka sponsored a similar bill in the 110th Congress, where it passed the House 376-1 but was put on hold by Sen. Robert Bennett, R-Utah. According to GovernmentExecutive.com, Bennett had concerns about the bill’s impact on the Federal Election Commission, which is responsible for interpreting campaign finance law and other regulations. He claimed the precise terms used in these laws and regulations could be lost if the commission were required to translate the documents using “plain English” as specified by the Office of Management and Budget.

The bill may have greater likelihood of passage by the 111th Congress, since the new administration has pledged to create “an unprecedented level of openness in Government.” The transparency, public participation and collaboration promoted by President Obama require not only the disclosure of information but also the disclosure of information in a form that can be understood and used efficiently by the public. If the bill is implemented, it may serve as a symbolic step to restoring the public trust in government and reshaping legislative processes in a way that fits the President’s vision.

The full bill can be accessed at <http://thomas.loc.gov/cgi-bin/query/z?c111:S.574>. The following served as sources for this story:

<http://www.govexec.com/dailyfed/0409/040209cdam1.htm>

http://www.govexec.com/story_page.cfm?filepath=/dailyfed/0408/041408markup1.htm
http://www.govexec.com/story_page.cfm?articleid=40970

Tushar Allotments Collaboration

In response to disputes regarding two cattle grazing allotments in Utah's Tushar Range, the Utah Farm Bureau and Grand Canyon Trust have co-sponsored the Tushar Allotments Collaboration. The collaboration project succeeded in bringing together stakeholders, such as the USDA Forest Service, permit holders and appellant representatives to resolve their disputes through collaborative decision-making. Since 2007, participants have engaged in meetings and negotiations, gathered data and developed procedures in order to draft the project's Final Collaboration Report in April of 2009. <http://tushar.ecr.gov/>

Information Needs of Communities in a Democracy

On April 21, 2009, after a year of research, meetings and forums across the country, the Knight Commission on the Information Needs of Communities in a Democracy prepared a preliminary draft of the introduction to its report and released it to the public. [[To download a PDF of the Knight Commission's Draft Report, click here.](#)]

Through May 8th, 2009, the Commission is seeking input from the public on the draft and a set of key questions they see as very important for deliberation before making their final recommendations. Visit www.pbs.org/publicinput to add your input. In addition to the draft and the questions there is an interactive experience, and videos from their public forums and meetings.

2009 World Water Forum Takes Place in Istanbul, Turkey

The 5th World Water Forum, entitled "Bridging Divides for Water", was held from March 15-22, 2009 in Istanbul, Turkey. The goal of the forum, sponsored by the World Water Council, was to promote "interaction, communication and functional harmonization among the stakeholders involved in or affected by water management." In support of this objective, Prince Albert II of Monaco announced the creation of the Water Think-tank, a partnership between the United Nations Institute for Training and Research (UNITAR), Plan Bleu and Veolia Environment. Members will work together to design better tools and methodologies for sustainable water resource management in the Mediterranean region. The Forum's web site is <http://www.worldwaterforum5.org/index.php?id=1878>. A synthesis as well as a final report of the Forum are linked at the bottom of this web page: <http://www.worldwaterforum5.org/index.php?id=1948L=5%3Fref%3DSevSevil.Com>

Mekong River Commission Holds International Forum

On March 12-13, 2008, the Mekong River Commission Basin Development Plan Programme Phase 2 (BDP2) organized the First BDP Stakeholder Consultation at Lao Plaza Hotel, Vientiane, Lao PDR. The main objective of the Consultation was to gather input from stakeholders on planning for the Lower Mekong Basin and comments on the Inception Report of the MRC BDP2. . This Consultation was the first series of meetings

the MRC BDP2 organized aiming to promote stakeholder participation in and facilitate dialogue about water resource development planning in the Lower Mekong Basin.

More than 100 participants attended the Consultation, including national agencies of the MRC Member Countries, non-governmental organizations, research institutes, private sector and intellectuals from the Mekong region. The Consultation focused on six themes of the Lower Mekong Basin Development Planning that include:

1. The MRC Basin Development Plan Programme
2. Role of the MRC and partners in sustainable development
3. Sustainable development opportunities and challenges; national priorities in the basin wide context
4. Developing innovative tools and assessment criteria for basin development planning
5. IWRM - From Global Principles to regional strategies and local actions
6. Stakeholder participation in MRC Basin Development Planning

Proceedings of this Consultation (with all presentations) can be found at http://www.mrcmekong.org/free_download/BDP-consultation.htm for free download

New Study Analyzes the Emotional Aspects of Community-Citizen Engagement

Soul of the Community (SOTC) is a three-year study, conducted by Gallup, of 26 communities across the United State using a fresh approach to determine the drivers of emotional community-citizen engagement and its role in community economic growth and well-being. The study focuses on the emotional side of the connection between residents and their communities.

In its first year, the study compared residents' engagement level to the GDP growth in the 26 communities over the past five years. The findings show a significant correlation between community-citizen engagement and the economic growth. Over the coming years, the researchers will analyze the trends of both community-citizen engagement and economic growth and definitively show whether community engagement drives economic growth or the other way around. Within a smaller microcosm, such as a company, Gallup has been able to show that increasing employee engagement will indeed lead to improved financial performance.

<http://www.souldofthecommunity.org>

Duty to Involve Legislation Goes Into Effect in England

On April 1, 2009, a statutory requirement took effect in England requiring all local authorities and certain other organizations to incorporate public involvement values and practices into their everyday functions. The duty is part of the Local Government and Public Involvement in Health Act of 2007. According to a report published by England's Involve organization, the purpose of the duty is to 'embed a culture of engagement and empowerment. This means that authorities consider, as a matter of course, the possibilities to provide information to, consult with and involve *representatives of local persons* across all authority functions'. Authorities and organizations are required by the

act to provide the public with appropriate information, consult with the public about their organization's practices and look for other ways to promote public involvement.

<http://www.involve.org.uk/duty-to-involve>



Featured Articles

EPA Finds Greenhouse Gases Pose Threat to Public Health, Welfare



On April 17, 2009, EPA Administrator Lisa Jackson signed a proposed finding indicating that six greenhouse gases pose a threat to the health and welfare of current and future generations of Americans. This was an historic action, and the first formal recognition by the U.S. government of the threats posed by climate change.

"This finding confirms that greenhouse gas pollution is a serious problem now and for future generations. Fortunately, it follows President Obama's call for a low carbon economy and strong leadership in Congress on clean energy and climate legislation," said Administrator Lisa P. Jackson. "This pollution problem has a solution – one that will create millions of green jobs and end our country's dependence on foreign oil."

As the proposed endangerment finding states, "In both magnitude and probability, climate change is an enormous problem. The greenhouse gases that are responsible for it endanger public health and welfare within the meaning of the Clean Air Act."

EPA's proposed endangerment finding is based on rigorous, peer-reviewed scientific analysis of six gases – carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,

perfluorocarbons and sulfur hexafluoride – that have been the subject of intensive analysis by scientists around the world. The science clearly shows that concentrations of these gases are at unprecedented levels as a result of human emissions, and these high levels are very likely the cause of the increase in average temperatures and other changes in our climate.

The scientific analysis also confirms that climate change impacts human health in several ways. Findings from a recent EPA study titled “Assessment of the Impacts of Global Change on Regional U.S. Air Quality: A Synthesis of Climate Change Impacts on Ground-Level Ozone,” for example, suggest that climate change may lead to higher concentrations of ground-level ozone, a harmful pollutant. Additional impacts of climate change include, but are not limited to:

- increased drought;
- more heavy downpours and flooding;
- more frequent and intense heat waves and wildfires;
- greater sea level rise;
- more intense storms; and
- harm to water resources, agriculture, wildlife and ecosystems.

In proposing the finding, Administrator Jackson also took into account the disproportionate impact climate change has on the health of certain segments of the population, such as the poor, the very young, the elderly, those already in poor health, the disabled, those living alone and/or indigenous populations dependent on one or a few resources.

In addition to threatening human health, the analysis finds that climate change also has serious national security implications. Consistent with this proposed finding, in 2007, 11 retired U.S. generals and admirals signed a report from the Center for a New American Security stating that climate change “presents significant national security challenges for the United States.” Escalating violence in destabilized regions can be incited and fomented by an increasing scarcity of resources – including water. This lack of resources, driven by climate change patterns, then drives massive migration to more stabilized regions of the world.

The proposed endangerment finding now enters the public comment period, which is the next step in the deliberative process EPA must undertake before issuing final findings. Today’s proposed finding does not include any proposed regulations. Before taking any steps to reduce greenhouse gases under the Clean Air Act, EPA would conduct an appropriate process and consider stakeholder input. Notwithstanding this required regulatory process, both President Obama and Administrator Jackson have repeatedly indicated their preference for comprehensive legislation to address this issue and create the framework for a clean energy economy.

Report Studies Public Opinion on the Nation’s Energy Problems

As the Obama administration begins to push its agenda for tackling the nation’s problems, it faces a major set of energy challenges representing a “triple threat” to the economy, security and environment of the United States. In response to these challenges, the Public Agenda organization has published a report aimed at providing

policymakers information about the public knowledge and opinion concerning energy issues.

The report, entitled “The Energy Learning Curve”, based its assessment on a survey of 1,001 adults over age 18 conducted between January 15 and January 30, 2009. The survey included 25 questions covering topics from participants’ basic knowledge about energy issues to their views on the energy problem and their opinions about potential and current U.S. policies. The findings of the report offer useful information to policymakers and other interested parties about where the public stands in terms of grasping the problem and moving toward consensus on a solution.

The Learning Curve model used by the authors of this report was previously created by Public Agenda chairman Daniel Yankelovich. By dividing the public participation process into 3 stages, the model aims to interpret opinion data in a way that can determine what actions are needed to move a group of people toward the end goal of reaching agreement on how best to solve a common problem. The 3 stages of the model are: consciousness raising, working through the problem and deciding on solutions. Based on the five findings summarized below, the report showed the public as being at the juncture between the first and second stages. In short, the public is aware of the problem but is lacking the general knowledge needed to reach an informed decision. Also evident in the results was the participants’ reluctance to accept responsibility for the impact of their individual actions on the problem and need for them to adjust their own behavior.

Findings:

1. The majority of the public currently views the price of energy and dependence on foreign oil as troubling problems, with climate change being less of a concern. They also believe that the problems associated with current energy production and use will not go away when the price of energy falls.
2. There is consensus among the public that the nation should pursue proposals on alternative energy sources, conservation and efficiency incentives. However, the public may not have realistic assumptions about how quickly and easily alternatives can be achieved.
3. There is also broad opposition to measures that increase the cost of driving. In general, people are willing to change their behavior in many ways, but they don’t want to be forced to do so.
4. The public’s knowledge level is low on energy, with significant numbers who do not know basic facts about how energy is produced. These findings call into question how firm the consensus is and how well it will hold up under pressure.
5. Four unique groups emerged during the analysis based on their knowledge and beliefs. Yet there is an opportunity to build consensus on the energy problem.
 1. The Disengaged
 2. The Climate Change Doubters
 3. The Anxious
 4. The Greens

For policymakers and parties working interested in moving the public forward in resolving the challenges facing the nation, the report offers a starting point for approaching the public. As the report emphasized, many citizens still lack the basic knowledge they need to engage effectively in any public dialogue. Others need help accepting the reality of these problems in terms of how it impacts their daily behavioral patterns and the changes required of them. For outreach efforts to be most effective, the study suggests the need for using a combination of educational tools along with opportunities for the public to deliberate and “work through” the problems they face.

To see the full report, including survey questions and data, please go to the Public Agenda website at <http://www.publicagenda.org/reports/energy>.

New State-Tribal Collaboration Act To Ensure Cooperation in New Mexico



*Navajo Nation Vice President Ben Shelly joined New Mexico Governor Bill Richardson and Senator John Pinto for the signing of the New Mexico State Tribal Collaboration Act.
Sherrick Roanhorse Photo*

Governor Bill Richardson signed the New Mexico State Tribal Collaboration Act on March 19, 2009 in Albuquerque, New Mexico at the Indian Pueblo Cultural Center. He was joined by Indian Affairs Secretary Alvin Warren, Senator John Pinto [sponsor of the bill] and tribal leaders from across the state.

"The concept of this new law sets precedence for other states to follow," Navajo Nation Vice President Ben Shelly said. "The State Tribal Collaboration Act will enable New Mexico's 22 tribes and the State of New Mexico to work more effectively on a

government-to-government basis by requiring all state agencies to implement stronger collaboration and communication policies with tribes."

SB 196, the State Tribal Collaboration Act, sponsored by Sen. Pinto, passed its last legislative hurdle in the New Mexico House of Representatives by a vote of 62-0 on March 15.

"The State of New Mexico recognizes all tribes as an equal," Governor Richardson said. "Now we are making it official with a law passed by the New Mexico Legislature."

Among its important provisions, the new law requires the governor to hold an annual summit with tribal leaders. The Act also requires that all cabinet level agencies develop plans to promote cooperation and communication between state and tribal governments and ensures that each of the 34 executive agencies permanently designate tribal liaisons to work directly with tribes

"I am truly moved by the passage of this bill which is a culmination of work that has been done by many people over many years," Sen. John Pinto said. "SB 196 will result in better coordination of resources to address shared priorities as well as higher quality services to our more than 200,000 Native American citizens in New Mexico."

In her floor remarks on March 15, Representative Sandra D. Jeff told members of the House of Representatives, "The State Tribal Collaboration Act will institutionalize a process that this body has long supported. Governor Richardson's consultation policies with tribes have resulted in many successes on education, water, health, and law enforcement issues and this Act will ensure that the spirit of this partnership continues in future administrations."

During the legislative process, Navajo Nation Vice President Shelly provided testimony to several legislative committees to support the bill.

"In the past, many New Mexico state agencies, such as the Department of Transportation, Human Services Department, and State Engineer's Office, have acted and made notable efforts to better coordinate and collaborate with the Navajo Nation and other tribes," Vice President Shelly told the Senate Indian and Cultural Affairs Committee on February 3. "With this act, the relationship between the State of New Mexico and tribes will grow and continue in future administrations, as well as provide greater consistency among state agencies."

"Many of our hard working senators and representatives, especially those who represent Navajo constituents, worked with Senator Pinto and Indian Affairs Secretary Warren to move this bill forward and I commend all of them for their efforts," the Vice President said. "From the Navajo Nation, Speaker Lawrence T. Morgan, Navajo Nation Council Delegates, and several division heads provided the support needed to move this significant legislation forward and their efforts help set precedence for state and tribal relationships."

This state level Act reinforces President Clinton's 1998 Executive Order 13084, and President Bush's Executive Order 13175, both entitled "Consultation and Coordination with Indian Tribal Governments". Find them @ <http://indian.senate.gov/13084.htm> and <http://www.epa.gov/fedrgstr/eo/eo13175.htm>.

EPA's policies related to Tribes are linked from <http://www.epa.gov/tribal/basicinfo/epa-policies.htm>

From The Navajo Nation, Office of the President and Vice President news release, March 20, 2009 and April 2 issue of Indigenous People's Issues Today

“Rally 'Round the Creek” A Celebration of the Past, in the Present and for the Future

By Wendy Thomi

Community Involvement Coordinator, Region 8

Montana citizens from Butte to Missoula and areas in between along the 150 river miles of Silver Bow Creek and the Clark Fork River came together on April 7 to celebrate the work that has been done on the largest Superfund area in the nation. In particular, event planners wanted to focus on the participants' love of the river- a meandering thread that connects them- and encourage them to get involved and stay involved on cleanup issues.

The expansive Superfund area consists of a complex system of four sites, both geographically and historically linked starting with the **Silver Bow Creek/Butte Area site**. The “Creek” originates in Butte, flowing through this proud city that was once touted as “the richest hill on earth.” Butte soils and ground water were contaminated as a result of heavy metals exposed by waste rock and mill tailings from more than a hundred years of mining.

The **Montana Pole and Treating Plant** in the southwest corner of Butte released organic compounds and creosote from wood treating operations onto the soil, into the ground water and into Silver Bow Creek. Wood for construction of thousands of miles of mine tunnels, railroads, the development of the city and other things, was treated here. Flowing northwest toward Missoula, the Creek continues past the communities of Rocker, Opportunity, Anaconda, Deer Lodge, and Drummond becoming the Clark Fork River and merging with the Blackfoot River at Missoula, unimpeded by the Milltown Dam since 2008.

The largest smelter stack from this booming era still looms to the northwest, in Anaconda, near the river, and is part of the **Anaconda Smelter Co. site**. The 300 square mile site contained millions of cubic yards of smelter tailings, furnace slag and flue dust. Heavy metal contamination generated by exposed waste rock and by-products from both Buttes' mining and smelting and Anaconda's smelting operations was dumped or washed into the river and deposited along the banks of the Clark Fork River or dispersed by flooding to the floodplain.

Contaminants were transported down the 120 mile Clark Fork River stretch (a separate Operable Unit) between Warm Springs and Missoula to the **Milltown Reservoir Sediments site**. The Reservoir was the result of the dam built to harness hydroelectric power to serve the mines and smelters. It served as a settling area for metals which over time seeped into surrounding groundwater that once served as a water supply source for Milltown.

The four distinct sites were listed on EPA's National Priorities List in the 1980s as some of the nation's first Superfund sites. Investigations and cleanup have progressed steadily since that time. Many dedicated community members have been involved in the process for years. EPA has completed emergency responses and long term clean up actions as part of the Silver Bow Creek/Butte Area site. Having measurably reduced risk, the focus is now on finishing the cleanup of the rest of the Butte Priority Soils Operating Unit through the long-term remedial response actions, prescribed in the Record of Decision. EPA, the Montana Department of Environmental Quality and the Potentially Responsible Parties are currently negotiating over the implementation of final cleanup actions for the site.

Focus of the Rally

The Community's well-organized rally focused on the \$63 million Silver Bow Creek portion of the cleanup, emphasizing the improvement over the polluted, sterile stream it once was. The event aimed to educate the public about progress that's been made thus far in the cleanup of the Silver Bow Creek/Butte Area Superfund site. The event included hands-on activities for kids, including local cub scout troops, talks from technical advisors from upstream and downstream Technical Assistance Grant (TAG) groups and more.



The technical advisors from the Citizens' Technical Advisory Committee in Butte (The Rally's principle planners) cautioned that with each storm comes more contaminated runoff from the Butte Hill. They urged a quick completion of stormwater controls, sedimentation basins, and other methods of controlling runoff to Silver Bow Creek. An advisor for the downstream Clark Fork River Technical Assistance Committee out of Missoula, said the ultimate goal is a healthy fishery for the entire watershed, from Butte to Missoula. He also emphasized the need to prevent recontamination of the portion of the Creek that has already been cleaned up.

Only a few stretches of Silver Bow Creek downstream from Butte still need cleanup, work that's scheduled to be done by 2012. Citizens who have become involved in the effort, however, don't want to rest. They stressed that pressure needs to be kept on federal and state officials to finish the job upstream. Everyone acknowledges that the necessary steps toward cleanup are underway, but time is of the essence.

It has taken more than ten years to remove most of 22 miles of streambed between Butte and Warm Springs and replace it with cleaner soils. Grasses, forbs and streamside shrubs have been planted, and in much of the creek, the sure signs of a healthy waterway — aquatic insects — have come back.

"There's never really been a restoration project like it in terms of scale," said Justin Ringsak, director of the Clark Fork Watershed Education Program. "They're totally rebuilding the floodplain from scratch." Ringsak was among a group of citizen volunteers, scientists and government officials who attended "Rally 'Round the Creek" at the Butte Chamber of Commerce.

Community groups and individuals contributing to this event planned it to appeal to all the senses. A local musician was playing guitar and singing outside the display area where people gathered to look at aquatic displays and dip their hands. Cub scouts were doing charcoal drawings. "The charcoal, appropriately enough, was made from willows gathered from along the creek," a community member observed. There was food, drink and a lot of good company. Neighbors talked. People who hadn't seen each other in a long time came together around the river. The communities did a great job coordinating the event and were rewarded with a great turnout on a magnificent sunny Montana spring day.



Open Government Activities

On his first day in office, President Obama in his [Memorandum on Transparency and Open Government](#) directed his Administration to develop recommendations for an "Open Government Directive" that moves government towards being "transparent," "participatory," and "collaborative."

OpenTheGovernment.org's webcast on March 20, 2009 presented a great opportunity for the public to be involved in the crafting of this directive. During the webcast, individuals who are deeply involved in formulating the Administration's policies and agendas explained the initiative's goals, received feedback from the audience, and let members of the public know how they can continue to the discussion. The event featured a discussion between speakers and the audience on what the Obama administration hopes to achieve, the policy issues facing this administration, the Obama administration's vision for e-government, and financial and economic transparency.

During the event, Patrice McDermott, Director of OpenTheGovernment.org, and Ari Schwartz, Vice President of the Center for Democracy and Technology (CDT), released a report based on the results of [Show Us the Data](http://www.showusthedata.org) <http://www.showusthedata.org>, a web-based survey used to discover what information the public wants to get access to and use, but cannot.

The panel of speakers was: [Dan Chenok](#), a member of President Obama's "Technology, Innovation and Government Reform transition team, former branch chief for information policy and technology in the Office of Management and Budget (OMB) and currently senior vice president and general manager of Pragmatics, [Katherine McFate](#), a Program Officer for Government Performance and Accountability in the Ford Foundation's Governance Unit, [Beth Noveck](#), a professor of law and director of the Institute for Information Law and Policy at New York Law School and author of Wiki Government (Brookings 2009), and lead for the Open Government Initiative, and [Vivek Kundra](#), newly-appointed federal Chief Information Officer (CIO).

You can watch the archived "Open the Government" webinar online @, <http://www.americanprogress.org/events/2009/03/doors.html>

On March 24, Government Executive and IBM Center for the Business of Government sponsored "Developing Your Agency's Vision for Transparency and Open Government", a Web-based seminar. The featured speakers and moderator were: [W. David Stephenson, President, Stephenson Strategies](#), [Dr. Carolyn J. Lukensmeyer, Executive Director, AmericaSpeaks](#), [Frank P. DiGiammarino, Vice President of Strategic Initiatives, National Academy of Public Administration](#) and [John Kamensky, Senior Research Fellow for the IBM Center for the Business of Government, IBM](#).

Those watching came away with a clearer understanding of:

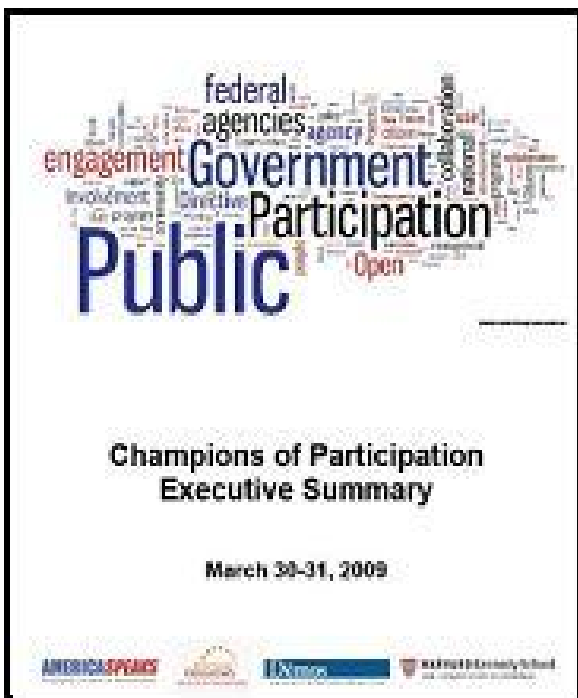
- What you need to consider in order to move your agency towards these goals of transparency, public participation, and collaboration, in advance of the specific actions which are expected from the Chief Technology Officer through OMB.
- What is the vision for your agency?
- What should you be doing now to get ready?

- What shape should you take for your strategy and plans?
- What implementation challenges will you face, and how can you overcome them?

To view the archived 60-minute event, go to:

http://w.on24.com/r.htm?e=136824&s=1&k=9AC66EEBDDD0293AA69795C694D051AD&partnerref=TU_ATTEND

Further, the report, "Performance Management Recommendations for the New Administration", by Dr. Shelley Metzenbaum is available at the same URL. In this report, Dr. Metzenbaum examines the evolution of the development and use of performance goals and measures over the past two presidential administrations and offers insights and recommendations to the Obama administration. These insights and recommendations are based on extensive interviews with key stakeholders in agencies, Congress, OMB, and outside interest groups, as well as her own experience as a federal executive. [Test the computer that you will be using and make sure you have the minimum technical requirements. Test at <http://webcast.on24.com/view/help/ehelp.html>.



Champions of Participation [Taken from the Executive Summary]

"Champions of Participation" was convened by AmericaSpeaks, Demos, Everyday Democracy, and The Ash Institute of Democratic Governance and Innovation at Harvard University's John F. Kennedy School of Government. The working session was made possible by a generous grant from the Rockefeller Brothers Fund.

Thirty-four collaboration practitioners and managers from 23 different federal agencies and departments came together with about ten outside public engagement experts on March 30-31 to develop recommendations for the President's Open Government Directive.

Participants in the working session shared a deep commitment to empowering the public and transforming the relationship between the American people and their government. Together, they brought to the discussion a wealth of experience in public participation, collaborative problem solving and conflict resolution. The full report can be downloaded from: <http://www.americaspeaks.org> at NEW REPORT.

The executive summary reflects the views of the 40+ people attending. Though there were many points of agreement, the summary also reflects the rich range of different experiences and perspectives brought by participants.

Overview of Recommendations and Implementation Strategies to the Open Government Directive

Conference participants identified top opportunities for and barriers to greater participation and collaboration that must be addressed by the Open Government Directive. For each of these items, a work group was formed to develop recommendations and implementation strategies for the Open Government Directive. A summary of these recommendations and strategies is provided below and a fuller set of recommendations is available in the complete report of the conference proceedings.

1. DEVELOP HIGH LEVEL INTER-AGENCY GOVERNANCE STRUCTURE FOR IMPLEMENTING THE OPEN GOVERNMENT DIRECTIVE

Oversight, promotion and management of the Open Government Directive within the federal bureaucracy are critical to its success. To this end, the Open Government Directive should:

- 1.1 Establish the President's Management Council as the key oversight structure for creating a more open government. The Council can effectively engage Deputy Secretaries of the cabinet-level departments and agencies, providing top-level management support for open government.
- 1.2 Form three inter-agency work groups to carry out the main aspects of the directive with the President's Management Council. The first work group will oversee implementation of the Open Government Directive and measure its progress. The second work group will build the capacity of federal employees to engage the public. The third work group will investigate enhancing public participation through the use of new technologies.

2. ESTABLISH SYSTEMS THAT WILL SUPPORT GOVERNMENT-WIDE ADOPTION OF PARTICIPATION AND COLLABORATION PRACTICES

In order to meet the goals of the Open Government Directive, it will be essential to support a "culture change" across federal agencies by establishing government-wide systems. To this end, the Open Government Directive should:

- 2.1 Establish an interagency working group on public engagement to develop a community of practice that grows and lives over time.
- 2.2 Establish a federal institute for public engagement, similar to the U.S. Institute for Environmental Conflict Resolution, to gather research on best practices, conduct trainings and develop a knowledge base.
- 2.3 Provide guidance to agencies on policies and interpretations of statutes through a White House Office/Council on Public Engagement.
- 2.4 Require all agencies to submit plans within 120 days that outline how civic engagement will be incorporated into achieving their missions. Within 180 days, agencies will produce a plan to integrate public involvement and collaboration into all relevant systems.
- 2.5 Leverage the expertise of non-governmental practitioners and experts through a roundtable or advisory board on public engagement.
- 2.6 Direct the Federal Executive Boards to implement collaborative partnership efforts at the regional level and within 180 days report to the entity overseeing the implementation

of the Open Government Directive on their plans for participation and collaboration projects.

2.7 Set up online systems of transparency and public accountability so that the public can see full life cycles of decisions and processes from the very beginning to implementation and evaluation.

2.8 Modify and augment existing performance measurement and scorecard systems to include community engagement criteria and metrics.

2.9 Establish a highly publicized and prestigious award for participation, collaboration and transparency.

3. DEMONSTRATE THE VALUE OF PARTICIPATION THROUGH HIGHLY VISIBLE PRESIDENTIAL INITIATIVES

The President has an opportunity to demonstrate the value that public participation and collaboration can bring to the policy making process through a set of high profile initiatives that involve the public on issues of high public concern. To this end, the Open Government Directive should:

3.1 Convene a national policy discussion on health care reform in order to demonstrate the role that the public can play in national policy making on a key policy issue facing the nation.

3.2 Explore other Presidential initiatives to demonstrate the value of participation and collaboration, including a federal agency intergovernmental collaboration on an issue like food safety, a cross-jurisdictional collaboration on an issue like developing a national disaster recovery plan, and individual agency problem solving on a major issue like dam safety.

4. RESPOND TO THE BARRIER THAT PUBLIC AND STAKEHOLDER PARTICIPATION ARE NOT ADEQUATELY VALUED INSIDE AGENCIES

Many federal agencies have been resistant to involving the public in planning and decisionmaking due to a highly centralized culture and structure that relies heavily on expert judgment when public values are at stake in difficult policy decisions. To this end, the Open Government Directive should:

4.1 Require that each agency designate and provide resources for a senior level open government champion who can review agency operations and identify areas to improve public participation, collaboration and transparency.

4.2 Provide agencies with incentives to pilot public engagement through rewards, a competition among agencies, learning opportunities, and incentives that are integrated into senior leadership competency requirements.

4.3 Demonstrate the value of public participation and collaboration through case studies and research on impacts and outcomes.

5. ENSURE THAT PARTICIPATION AND COLLABORATION ACTIVITIES ARE ADEQUATELY FUNDED

Agencies generally do not adequately plan or budget to integrate public participation or collaborative processes into their programmatic work. To this end, the Open Government Directive should:

5.1 Direct agencies to incorporate participation and collaboration into funding requests and major project planning. Direct agencies to use at least 1% of program budgets for implementation of the directive.

5.2 Set standards for the amount of funding that will be dedicated to participation and collaboration activities by collecting data on the costs of public engagement strategies and collaborative processes.

5.3 Create new funding sources for participation and collaboration through the use of public/private partnerships, the creation of a special fund for public engagement and collaboration activities, and the use of attrition to shift the number of existing full-time equivalents to new public engagement positions.

6. ADDRESS INSTITUTIONAL BARRIERS THAT REWARD THE STATUS QUO

A risk adverse culture within the federal government reduces the ability of federal managers to experiment with new methods of public participation and collaboration. To this end, the Open Government Directive should:

6.1 Counter the risks perceived by federal managers and other disincentives by integrating participatory and collaborative process skills, practices, behaviors, and values into agency activities, like hiring, performance agreements, strategic planning, training and budgeting.

6.2 Hold agencies accountable for the degree and quality of their public participation and collaboration activities through the development of clearly defined and measurable outcomes and standards for implementation of participation and collaboration activities. Develop a system for monitoring progress.

6.3 Require each agency to designate one person who regularly sits at the leadership table to be responsible for driving the culture change and processes that enable optimal civic engagement in the agency's mission.

7. ADDRESS EXISTING RULES & REGULATIONS THAT IMPEDE PARTICIPATION & COLLABORATION

Certain laws and regulations, as well as the manner in which certain agencies interpret these laws and regulations, affect the ability of agencies to engage and collaborate with the public. To this end, the Open Government Directive should:

7.1 Conduct a review of each department and agency to update program regulations and rules in keeping with the goals of the Open Government Directive. Identify barriers to participation and collaboration imposed implicitly or explicitly by government-wide laws or regulations, by policies administered by other agencies, by agency or program-specific laws or regulations, and administratively by the department, agency, or program.

7.2 Based on the review described above, department and agency heads will develop plans to improve their citizen participation efforts.

Additional Information

In addition to the recommendations summarized above, conference participants produced a wealth of information to help shape the development of the Open Government Directive. The following are included in the full report:

- A list of potential pilot projects for participation, collaboration and transparency
- Recommendations from individual participants
- Key indicators of success for the Open Government Directive
- Roles for public involvement
- Opportunities for and barriers to creating a more open government
- Responses to a pre-conference survey that included information about:

- existing agency programs that can benefit from participation
- existing innovations in citizen participation that the Open Government Directive can learn from
- barriers to participation
- hopes for the Open Government Directive
- hopes for Champions of Participation
- reference materials

Public Apology: An Unapologetic Primer

By Douglas Thompson¹ and Patrick Field²

We are sorry and embarrassed. But most of all, we are deeply sorry.... Following the severe winter ice storm in the Northeast, we subjected our customers to unacceptable delays, flight cancellations, lost baggage, and other major inconveniences.... You deserved better—a lot better—from us last week. Nothing is more important than regaining your trust and all of us here hope you will give us the opportunity to welcome you onboard again soon and provide you the positive Jet Blue experience you have come to expect from us.

--David Neeleman, Founder and CEO, JetBlue Airways

The comment was not meant to be a regional slur. To the extent that it was misinterpreted to be one, I apologize.

--Assistant U.S. Attorney Kenneth Taylor after referring to potential jurors in the eastern Kentucky mountains as "illiterate cave dwellers."

Sorry. The word has always had a lot of currency. Bump into someone accidentally boarding a train... "Sorry about that." Didn't quite catch what was said... "Sorry?" Feeling sympathy for another's pain or loss... "I'm terribly sorry to hear..." Dissatisfied with someone's performance... "Sorry, buddy, you can do better." The word can even be turned in an ungentle direction: "I'm sorry, apparently you are incapable of understanding my point" or "Stop feeling sorry for yourself or even "Get your sorry *#! out of bed!" However, its first listing in the dictionary is "feeling regret." Apology is commonly defined as "a written or spoken expression of one's regret, remorse, or sorrow for having insulted, failed, injured, or wronged another..."

Public Apologies

Public apologies, once about as popular as root canal work, seem much in vogue these days. Of late there has been a seemingly endless penitent's parade of elected officials, executives, movie stars, academic figures, religious figures, talk show hosts, and athletes expressing remorse and regret for things said and done ranging from personal peccadilloes to jokes gone bad to poor performance and assorted other antics and regrettable behaviors.³ Are these expressions a healthy evolution from the Duke's⁴ on

¹ Senior Mediator, The Keystone Center

² Managing Director, The Consensus Building Institute

³ An abbreviated sampler includes George Bush (conditions at Walter Reed Army hospital); Eliot Spitzer (extra-marital dalliances); Mel Gibson (anti-Semitic remarks); Larry Summers (comments about women in

screen advice—“Never apologize!”—and a refreshing acknowledgment of our collective human fallibility? Or are they a contrived maneuver to spin public opinion, avoid the rightful consequences of mischief and cheapen a redemption that should be hard earned? Just what are the characteristics of an effective apology in the public arena? A poor one? What sorts of risks face apologetic public officials and agencies and can they be minimized without changing what started as an authentic sentiment into something sounding phony and calculated? When is some other response—empathy, for example, more appropriate than an apology and just what is the difference anyway?

As mediators, we often encounter situations where parties might either seek an apology or contemplate delivering one. In other cases, even where the prospect of an apology has not been explicitly raised by the parties, we might nevertheless perceive that one might help repair a frayed relationship, build trust or enable parties to hear each other more clearly. Apologies are often private in nature; the exchange takes place—and stays—between two individuals. In other cases, expressions of contrition are “semi-private” where a person might apologize to several individuals or a roomful of people, some or all of whom think they have been wronged. Word might get around town but it is not front page news. In other cases, the apologist stands, chastened, in full view of the media. What advice would we give those thinking about offering an apology, particularly when it might be toward the more visible and public end of the spectrum?

Despite being much in fashion, apologies are not always appropriate or helpful. If a public official with the benefit of hindsight would not do anything differently given the chance or if no error (even one discernable only in retrospect) occurred, then the grounds do not likely exist for an apology. In those situations, a related type of response may be more appropriate. In contrast, errors, mistakes, missteps, poor judgment, assorted human foibles, accidents, bureaucratic inanities, bumbles, various forms of intemperance, well-intentioned efforts that made things worse, oversights, anomalous situations, circumstances where the few suffer for the good of the many—all may call for some sort of apology.

An apology requires acknowledging a mistake or failure of some kind and includes a recognition of harm suffered or offense taken. To varying degrees, apologies normally take some responsibility for the acts in question, include expressions of sorrow or contrition and may include promises of remedy or correction. As even the most casual newspaper reader knows, apologies range from the movingly heartfelt and direct to laughable faux apologies that do not own up to much of anything.

Although people often speak of “simply apologizing” the reality is anything but simple; to acknowledge a transgression and seek to put matters right can be a complex act. Experience and common sense point to several touchstones that increase the likelihood of an effective apology. By “effective” we mean foremost an apology that recipients hear clearly and perceive as authentic. In addition, effective apologies typically address strong emotions in play, respond to issues of compromised integrity or morality, help repair ruptured relationships, and reduce the prospects for further damage (e.g., bad publicity, lawsuits, loss of market share, erosion of trust and so forth). In many cases, of

science); Don Imus (comments about Rutgers women’s basketball team); Michael Vick (animal cruelty) and Alex Rodriguez (steroid use).

⁴John Wayne, not Wellington.

course, no apology, however sincere and well formulated, can wholly remedy harms that have occurred; compensation may need to be paid, those wronged may remain angry and resentful and lost confidence may only slowly be regained. Would be apologizers would do well to remember that recipients own the effectiveness of an apology as much (if not more) than the one offering it. A heartfelt, well-crafted apology might be rejected out of hand just as a fake and poorly constructed one might be embraced.

General Principles

While we emphasize that there is no standard apology “recipe” and that each situation needs its own diagnosis about whether and how to apologize, certain general principles apply much of the time:

Right Timing. As a general rule, the closer the apology comes to the actual or perceived harm, the more likely it is to be effective. In some cases, where strong emotions are dominating, a cooling off period or some time for the reality of a situation to become accepted before apologizing may be advisable so the recipients are better able to hear what is being said. In other circumstances, establishing some key facts before offering an apology makes sense to avoid either unnecessary contrition or having to amend matters later. Most often, however, earlier apologies work better than later ones. Delayed or reluctant apologies, especially those that follow what might appear to be failed attempts of evasion or denial will almost always be awarded less credence. Typically, of course, apologies do not precede the harm and might needlessly undercut confidence (do you want your surgeon saying, “I apologize in advance for any mistakes I might make?”). In other circumstances, however, some anticipatory acknowledgment of likely-to-occur unpleasantness may reduce the need for a future contrition.

Clear and Specific. Convoluting, nebulous or meringue-like apologies will confuse listeners at best; worse, it may inflame the situation. Early after taking office, Massachusetts Governor Deval Patrick responded to some criticism about increasing the gubernatorial office and automobile perks with the following apology: “I am so sorry that we all have spent the kind of time we have on what we have spent time on, and I am sorry to have been responsible for that.” He seems sorry—doubly so, in fact—but would the listener have any clue about what? In contrast, consider the Jet Blue apology at the beginning of this article in which the airline cites lost baggage, unacceptable delays and flight cancellations. Effective apologies require facts, specificity and naming the wrongs done and the hurt caused.

Accept People Where They Are. If parties are sad, hurt or just plain mad, it may help to acknowledge those feelings emphatically and, if possible, acknowledge those emotional responses as legitimate. As we discuss below, expressions of sympathy or empathy, while not apologies in and of themselves, may be important elements of an effective apology. The natural urge is to defend oneself, to ignore it, silence it, in short, make it go away. But given hurt and harm done, a key part of an apology may be accepting and acknowledging the emotions those wronged feel, however unpleasant they may be. Too late, and sorry means little. Too early, and sorry just means please make your anger (and my discomfort) go away.

Just Apologize. Robert Frost once wrote that “Anything more than the truth would be too much.” Likewise, anything more than the apology may be too much, especially at the outset. There may well be valid explanations and reasons for why things unfolded as they did but refrain for emphasizing those at the outset. What might seem like a rational

explanation to the apologizer may sound to the recipients as attempts to deflect, shift blame and make excuses. If your flight was cancelled, your bags lost and you missed your kid's birthday party, you are more likely to hear a direct and forceful apology rather than explanations about how meteorologists blew the weather forecast or circumstances conspired to create an unprecedented situation. Explanations are not apologies. Defenses are an apologia, but will be simply Greek to those wishing just for "sorry."

Take or Promise Action. It can often be useful to follow the apology (sometimes immediately) with explanations of what happened and why, descriptions of investigations underway and promised next steps to prevent a reoccurrence. While some recipients may be moved by an apology, others may view it as "just words, not action." Actions consistent with the apology should be detailed, ideally in ways that are transparent and accountable.

Be Personal if Possible. In some cases—apologizing for historical crimes for instance—there is an inevitable distance between the events generating the apology and the one doing the apologizing.⁵ In general, however, apologizing "on behalf" of organizations or other people or other rhetorical devices that insulate the apologizer from the misdeeds in question will come across as less than heartfelt. Consider, on the other hand, how when a high-level Air Force official came to a community affected by groundwater contamination from a military base he said in public forum: "I am sorry we polluted your water. I am sorry that we have not dealt with investigation and cleanup in the way we should have. I will take responsibility for ensuring that the Air Force makes your community whole again." Even though he did not himself pollute the water, this personal, first person statement was well received. In a few circumstances, it can help to have a neutral assist with an apology. One of our colleagues recalls mediating a case where each party wished to apologize but neither could bring itself to do so. The mediator was able to put the apology on the table as a reciprocal gesture which the parties accepted and helped end the dispute.⁶

Be Genuine. If you are not sorry, then don't pretend to be.⁷ Less principled advice would be to at least create appearance of sincerity. In either case, the recipients of an apology will be the ones to ascribe motive and intention. A phony apology may make things worse—possibly much more so—than none at all. Examples of seemingly insincere, coerced, petulant apologies abound. Consider Rush Limbaugh and his efforts to backtrack after confronting Michael J. Fox for "exaggerating the effects of Parkinson's disease." "...I will bigly, hugely admit that I was wrong, and I will apologize to Michael J. Fox if I am wrong in characterizing his behavior on this commercial as an act." In other words, *if* I am wrong I will apologize. Or the words of Assistant U.S. Attorney Kenneth Taylor, whose apology (see above) referred to prospective jurors in the eastern Kentucky mountains as "illiterate cave dwellers." "The comment was not meant to be a regional slur," Taylor said. "To the extent that it was misinterpreted to be one, I apologize." Here we see an attempt to plead malice down to lack of intention and even

⁵ Consider for example, President Clinton's 1993 apology to native Hawaiians for U.S. complicity in overthrowing a legitimate monarchy in the late 1800s and annexing the Islands illegally.

⁶ Thanks to Peter Adler for this story.

⁷ We will not address here an interesting but distinct question of whether what many describe as "political correctness run amok" has resulted in an increase in unmerited apologies.

suggest that it is the listeners fault for not interpreting the real meaning (which would be what one might ask). There are numerous artful rhetorical devices depersonalizing an apology—passive voice, apologizing for the “impact of inappropriate conduct,” pointing to those who “misinterpret” or statements along the lines of “For those I offended ... I apologize.” In other words, it’s really your fault but if you are going to be a crybaby, well, then here’s your apology.

Some Other Dynamics

Even an apology that on its face touches all the right bases may be difficult to interpret with certainty. Consider this apology after the Columbia disaster that seems almost as searing as the explosion that destroyed the spacecraft:

I had the opportunity and the information and I failed to make use of it. I don't know what an inquest or a court of law would say, but I stand condemned in the court of my own conscience to be guilty of not preventing the Columbia disaster. We could discuss the particulars: inattention, incompetence, distraction, lack of conviction, lack of understanding, a lack of backbone, laziness. The bottom line is that I failed to understand what I was being told; I failed to stand up and be counted. Therefore look no further; I am guilty of allowing Columbia to crash. – W. Wayne Hale, Jr., NASA

Yikes. Did he put all the responsibility upon himself because that is how he felt? Was he doing his duty in a Harry Truman-esque, the buck-stops here kind of way? Or was he trying to protect others on his team, maintain morale and prevent an erosion of confidence? Was he assuming, willingly or not, the role of scapegoat to contain the damage and perhaps spare others? Did he labor over these words or did they come in one flashing heartfelt moment? We do not know. Perhaps the apology in part helped W. Wayne Hale and NASA move on: Hale has been promoted and the shuttle is flying again.

We mediators rather like to point parties, maybe a bit too facilely, to the supposed benefits of giving and accepting apologies. It is true that an increasing body of research demonstrates the salubrious effects upon both those offering and those receiving apologies. So why do many parties hesitate to apologize and why do we often see so many apologies that seem either half-assed or heavily lawyered? Part of the explanation is doubtless human nature—it is *hard* to admit error, to acknowledge hurting or harming other people; for most of us, making mistakes and visibly admitting to them is not central to our self image. This can be especially difficult for leaders, who by dint of temperament and position, wish to appear strong and competent as well as having a reputation to uphold. Indeed, for many of us, our brains will go to great lengths to concoct explanations that minimize our own culpability in cases where, ahem, “mistakes were made.”

There is more than human hubris or lack of empathy at work, however. In reality, those contemplating an apology often find themselves impaled on the horns of a dilemma. A finely constructed and delivered apology may well reduce negative emotions, rebuild fractured relationships, reduce the risk of litigation and create conditions for better understanding. In some circumstances, however, an apology may have negative

consequences or even result in the very responses one sought to avoid. While in most cases, an apology can help address strong emotions and promote forgiveness, in some circumstances it might inflame feelings, fuel a stronger thirst for retribution or draw broader attention to misdeeds. Likewise, while there is good evidence that apologies more often than not diminish the risk of litigation, the reverse can sometimes happen--it may increase the prospect of a lawsuit or criminal prosecution or even catalyze legal action not previously considered.

Imagine for example you are a decision-maker faced with a crisis of some sort and your crack staff provides the following (hypothetical) analysis: "We would like the conflict we face to be resolved, our credibility restored and above all to avoid litigation. As matters stand now, we think there is a 40% chance of a lawsuit being filed with all the associated negative publicity. If we offer a candid and full apology there is a 50% chance of calming the situation and reducing the prospect of litigation. There is a 30% chance that such an apology will not materially affect matters one way or another, and a 20% chance that it will backfire and make litigation both more likely and more risky." While it is seldom possible to calculate realistic odds so precisely, the basic conundrum is real.

What do you do? Strive for the best and most likely outcome and issue the full blown apology? Or avoid the risk of aggravating an already bad situation and having the apology boomerang back in the form of more strident opposition or litigation? Little wonder that in many such circumstances parties respond by trying to have it both ways with qualified apologies, nebulous expressions of regret that acknowledge no real responsibility, assertions of being misinterpreted, and other such equivocations and qualifications. Unfortunately such attempts to garner both the benefits and reduce the risks of an apology are rarely effective.

One idea gaining traction is to protect apologies legally. Under this approach, apologies, similar to offers made in settlement negotiations cannot be construed or entered into evidence as an admission of legal liability. In 2003, Colorado enacted a law making apologies offered by health care providers inadmissible as evidence of liability and since that time several dozen other states have followed suit although the legislative particulars vary.

We recognize that in many circumstances public officials receive complaints but feel that they are, essentially, "doing their job" and need not apologize for their actions. Yes, apologies should be reserved for those situations where something has indeed gone wrong although the mistake need not be catastrophic, malevolent or even avoidable; however, it should be possible to point to some error or action, at least in retrospect, that should have been handled differently. In contrast where the actions of public officials in the course of normal business result in unavoidable hardship or citizen discontent, then a more empathetic and less apologetic response would be indicated. If new highway construction or a Superfund remedial action will require the taking of a cherished family homestead, the affected parties may be sad and angry. Many of the specifics of a good apology discussed above—expressing regret in a clear and specific manner, "meeting people where they are," acknowledging strong emotions—would all be appropriate responses even though the public official or the organization that he or she represents has done nothing requiring an apology. In some situations a simple acknowledgement of the obvious can go a long way: "I am sorry that this is such a bureaucratic process and that you have had to wait so long."

In our work, both in⁸ and with the public sector, we have sometimes found hesitation to express empathy, much less be apologetic, especially in the context of adversarial situations (e.g., an enforcement action). We think this reluctance stems in part from psychological factors—it is often easier to caricature than truly characterize—and from a concern that to empathize or acknowledge openly the other side's perspective somehow grants it more legitimacy than it warrants. Nevertheless, early in an enforcement settlement negotiation, for example, if an agency official says, "Look, we realize it is no fun being on the receiving end of an enforcement action and we hear that you feel that you have been treated unfairly" reflects acknowledgment, not agreement. Such responses often have strategic value; parties who feel heard and understood are frequently better able to understand other points of view and negotiate more reasonably.

We hope you have found these thoughts about apologies of value. If not, well, *mea culpa*. We are truly and deeply sorry for taking your time!

The authors wish to thank friends and colleagues Elissa Tonkin, David Matz and Peter Adler for helpful comments on an earlier draft of this paper.

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Public Involvement brings the pieces together

⁸ Prior to joining Keystone, Doug Thompson worked for 26 years with the U.S. Environmental Protection Agency