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THOUGHTS ON PUBLIC INVOLVEMENT IN PROJECT XL

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What is a local stakeholder?

A local stakeholder is not easy to define. An employee of a company is one. The person who sells to a company is another. So is the school board member and president of the local community college. As is the average citizen that lives down the road from the company, who has no affiliation with the company at all. Each of these has a stake in the facility and the outcome of the regulatory process. Each comes to the table with a different set of assumptions and objections.

One of the differences between these people is the level of vested interest in the outcome of the regulatory process. In this area, they each have a direct interest in the outcome based on their interest.

Thus, if a company is found to have environmental violations, it may not be to the interest of some of these people to expose these violations. Likewise, if the company was easily falling below their permitted emission levels, it may not be to the company's best interest to point this out, as someone may ask for lower emission levels.

There could be many others that fall into a middle ground as far as some type of vested interest. An example of this is someone who works for the government. This individual has many complex ties to the company in question that may not allow for a true unbiased analysis. Another example is someone that works for the local school district. In this case, the school district is striving to enhance its revenue or its bonding capacity, as represented by the taxes or cost on the tax roles.

We are left with a subset of people that do not have some type of tie to the company's facility. These are the "John Q. Public" that represents the vast majority of the populous in almost every area. It is these people that only have the vested interest of their friends and families to be concerned with; it is this group that is the reason behind Project XL.

Public stakeholder selection process

The selection of the public stakeholders is one of the most critical portions of the XL process. As was just stated, the public stakeholders are quite different from the regulators and company stakeholders. In addition, the public stakeholders come from very different points of view. As such, it is possible to create a panel that includes only "friendly" participants. Although this may be easier to develop an FPA, it is not necessarily in the best interest of the public, in general.

It takes a very confident company to allow resources that may be critical to the agreement onto the XL panel, but this is highly desirable to the public. Without both the ability to be critical and obtain improvements in the agreement, but also the willingness to be critical, the public's best interest is not being completely fulfilled.

Yet, how does one measure this factor and how do you ensure that these types of resources are allocated to the process. This is neither easily measured nor easily determined. In addition, it is difficult for both regulators and companies to not only allow, but welcome this type of resource on to the panel.

There are many outgrowths of the method that this process takes. Among these are:

- The effectiveness and thoroughness of the agreement
- How fast the agreement will be finalized
- How well the agreement can stand up to critical analysis.

The end result is that an agreement may be created, but it will not extend the public process nor the regulatory paradigm. This results in a zero gain for the public, the regulatory agencies, and the company.

Differences between the local stakeholders and the others at the XL table

One thing that regulators and industry representatives involved in Project XL must understand is that community participants come to the table from a different perspective. They do not come to the process as a result of their employment. They come as a result of concern for their families and neighbors. They care about good policies being developed for the place in which they live and raise their children.

It's a big responsibility to speak out for one's community. This is not taken lightly by people, as can be seen from the lack of community involvement throughout the country. This lack of community commitment could also be seen throughout the Project XL process by the shortage of people at any of the public outreach sessions.

City officials who have invested time, effort, and tax incentives to lure an industry to their community may regard citizens who take strong positions as counterproductive. Charitable organizations in the community may feel uneasy about potential insults to their corporate donors. School officials may share this view, as business provides a more generous tax base for funding. A community member, who is concerned with the health and safety of his/her family may face a lot of pressure, even opposition.

The decision to participate does not always come easily. Community members must often leave work early to attend meetings and thus lose valuable work time. They must sacrifice personal time with their families. Employers may view employees that participate and take cautious or strong positions as potential troublemakers. Community members do not receive financial compensation or the possibility of career enhancement.

If the benefits to the community are not clear and enforceable, the community participants may not only come away feeling isolated, exhausted, and stressed financially, but with a greatly reduced sense of trust in the governmental process and industry's claim to care about the community in which they conduct business.

This is a process that should not be artificially pushed

The inclusion of the public into this process is not done to expedite the process. The public is included in the process in order to include their point of view, not in order to hasten the process.

The public does need certain consideration when included in this type of process. Among these is that they can slow the process down. This is caused by several factors, not the least of which is that the public has many other demands on their time.

It is appropriate to keep the process moving, but it is destructive to push an inappropriate schedule for the process. Appropriate targets should be established by all of the participants and attempts should be made throughout the process to adhere to those schedules.

At the same time, a constant vigil should be kept to ensure that the schedule is still seen as acceptable. New facts may become known (in fact, they probably will appear!) that can modify the schedule established for the project. Some of these changes will hasten the schedule; others will adversely effect the schedule. Neither should be seen as acceptable nor should "blame" be set. This is just a normal result of any negotiation.

The public stakeholders must have independent technical assistance

The public entering Project XL cannot be expected to be experts in the technical issues raised by this activity. In fact, they will seldom have this background; this type of knowledge is not within the normal experience of the public.

When the public is negotiating with the regulators and company representatives, they are at a distinct disadvantage when they do not have access to some independent analysis of the proposals and issues raised by regulators and company representatives.

This results in the public stakeholders being put into an inferior position at the negotiation table for Project XL. This disadvantage is so large as to all but exclude them from the team.

This is especially interesting, as both the regulators and companies have their own team of specialists in these areas. These specialists are available to both answer their own internal questions and to provide analysis of the proposals made by others. This results in the public stakeholders being exposed to being taken advantage of by both the regulatory and company representatives.

What makes this lack especially interesting is that the company has come to EPA to pursue a Project XL agreement in order to gain some advantage. Yet this same company is not expected to expend anything in order to gain not only the technical advantages expected from an XL agreement, but they do not have to expend any funds in order to take advantage of the press advantages gained by signing an FPA; this gain at the expense of the public's ability to effectively analyze the agreement. Thus, the public loses first because it cannot analyze the agreement effectively and the public loses because the company uses the public involvement in XL to gain a public relations advantage.