A Model Plan for Public Involvement in Contaminated Sediment Cleanups

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Cleanup of the toxic muds that line many of our rivers and harbors ranks among the most confusing and contentious environmental issues in which the public must be involved. The cleanups are expensive, the issues are highly technical, and there are no easy answers as to how the cleanups should be done, making it difficult for communities to get involved. But the cleanups are critically important to the future health of the Great Lakes and the people who live there. People who want to eliminate toxic chemicals from the Great Lakes to protect their families and the environment must get involved in these cleanups.

Why is public participation important?

In our experience, we've seen many cleanups where the community opposed a final cleanup decision because they were not involved in its development, or their concerns were not adequately addressed. These experiences are in stark contrast to places like Ashtabula, Ohio, where extensive public involvement over the past four years has helped push forward a complicated cleanup. While increased public involvement is not the answer for every community, we believe that it can help move cleanups forward in many cases.

For example, one of the most difficult and contentious aspects of a sediment cleanup is determining how to clean up the sediments and what to do with any sediments that are removed from the bottom of a river or harbor. The gridlock that these decisions can cause can stall a cleanup for years.[1] Getting the community directly involved in selecting a disposal solution from the beginning can help avoid gridlock at the end of the process.

Another barrier to sediment cleanup is a lack of funding. If community members have helped to create a cleanup plan, they may also be able to generate ideas to fund and implement the plan. In Ashtabula, members of the community, including businesses and local officials, were instrumental in obtaining cleanup funds from federal, state, and private sources.[2]

To address these problems, the Grand Cal Task Force, Lake Michigan Federation, and Sierra Club jointly embarked on a project to identify, from a community perspective, some of the barriers to public participation and community based decision making in contaminated sediment cleanups. In addition, we solicited input on potential solutions to those barriers at all levels, from the community to the federal government. Our goal is to promote community based decision making as a standard procedure in developing

[1] Indiana Harbor is a prime example of a cleanup that has been repeatedly stalled because of community opposition to sediment disposal plans. While community members agree on wanting the site cleaned up, they have not been directly involved in choosing a disposal site and have opposed the options selected by the Army Corps of Engineers. Please see www.ijc.org for more information on this and other Areas of Concern.

[2] Input from attendees at Sierra Club's contaminated sediments workshop in Buffalo, Nov. 8, 1998.

contaminated sediment cleanup plans. Our objectives are to: 1) identify the barriers to community based decision making from a community perspective; 2) propose solutions to those barriers for all levels of implementation; and 3) establish the framework for an ideal community based decision making model.

To meet these objectives, we collaborated to organize a series of workshops around the Great Lakes basin. Most of the workshop participants had experience with Remedial Action Plan cleanups in the Great Lakes Areas of Concern. We facilitated their discussion of the barriers to effective public involvement in sediment cleanups and some potential solutions to those barriers. We summarized the discussion in a companion document to this model – *Community Decision Making in Contaminated Sediment Cleanups*. We then used their feedback and suggestions to develop a model framework for public involvement in sediment cleanups.

One of the keys to taking advantage of some of the opportunities described above is conducting an effective public involvement program that is well suited to both the task at hand and the community in which it is implemented. While we cannot account for community specific variables, we believe that the task of sediment cleanup lends itself to a particular type of public involvement program. The model that we describe here is based on the generic contaminated sediment decision-making framework used by EPA. We believe that this model will be helpful at most sediment cleanups. Determining whether or not it is the best public involvement program for a particular community will require an educated and subjective judgement call on the part of the agency implementing a cleanup. We refer the reader to the appendix of this document for additional references and information to help make this decision.

EPA's general decision making process for sediment remediation involves four basic steps:[3]

- Define project goals, scope, and objectives
- Identify cleanup alternatives and screen cleanup technologies
- Project design and siting
- Implementation

Our model operates on the premise that the public should be involved in each of these steps and that, while their input is advisory, it should have a measurable impact on the final cleanup decision. It is critical to involve the public from the beginning, because late involvement tends to lead to gridlock. And, if agencies chose to undertake this process, they must do so under the premise that the resulting public input will actually influence the cleanup decision. At the very least, they must be clear from the start about the level of influence that committee recommendations will have. They should also specify the regulatory, legal, or other constraints on the process that will influence the final decision.

[3] *Assessment and Remediation of Contaminated Sediments -- Guidance Document*. USEPA, Great Lakes National Program Office. 1992. Please see Chapter 2 for a detailed discussion of each step in the decision-making process.

Defining Project Goals

Step one in most sediment cleanups involves defining the goals and objectives of the project – what is the problem that you are addressing and what is the end result that you want to achieve with your actions? For example, a definition of the problem might be that there are chemicals in the sediment, damaging the ecosystem and making the fish unsafe to eat. If so, you need to determine whether your goal is to make the fish safe for humans to eat, or whether you want to restore the river's ecosystem so that the fish are safe to eat, bald eagles and mink can reproduce, and the ecosystem is healthy. This discussion should *not* include any discussion of the methods that you may use to achieve your goals, such as dredging.

We believe that it is crucial to involve the community in this first step, something that is not always done. After all, the resources being discussed belong to the community and they should have a say in how they are managed and used. This step is roughly equivalent to the first stage of the Remedial Action Plan (RAP) process, as defined by the International Joint Commission.

Engaging a community, particularly in the beginning of a project (before there is a crisis or a noticeable problem) can be difficult. Thus, we recommend a series of actions to involve the community in defining project goals:

- Assessment and fact finding within the community
- Develop an informal relationship with the community
- Establish a community advisory committee

Assessment and fact finding

Assess the community you are trying to reach, with particular focus on cultural and class sensitivities. Identify who you are trying to communicate with and how they can be reached (e.g., churches, town meetings, radio, television). Identify what messengers might be most effective in reaching out to the community and the best means of passing on information (e.g., word of mouth, written materials). Think about the messages that you might use to engage the community in a discussion about its resources. The important thing to note here is that you should not be crafting messages to "sell" a solution – you have not even discussed the problem yet, and at no point in this process should this become a PR campaign. Rather, you are looking for ways to engage the public in an environmental issue – something that is not always easy to do.[4]

Developing a relationship

Before you can realistically establish an effective public involvement program, it is important to use some of the avenues identified above to build an informal relationship

[4] The Biodiversity Project has done some excellent work on how to communicate to the public about biodiversity. As a primer, we recommend *Engaging the Public on Biodiversity: A Road Map for Education and Communication Strategies*. The Biodiversity Project. 1998.

with the community. This includes reaching out to community leaders, connecting with the messengers that you hope will help conduct your outreach, and getting to know media contacts in the community. It might also include fostering a community's connection with the resource by conducting outreach at nontraditional events (e.g., fishing tournament, canoe outing on the river). And it is an opportunity to tap the community for its wealth of information about the resource and historic events in a two-way exchange of information. As part of this process, you are building community awareness of the problem and your approach of working with the community to solve the problem. However, this outreach should not yet include a discussion of specific goals and objectives, although it may provide you with a sense of the community's concerns.

Establishing a community advisory committee

Now that the community is aware of an issue that needs to be resolved, it is time to establish some form of an advisory committee that can address the issue. We'd like to note that there are many different forms of public involvement, ranging from public education, to public hearings, to consensus building, to formal mediation. A discussion of the merits and applicability of these different forms of public involvement is outside the scope of this paper.[5] We recommend using a well-formulated community advisory committee because it seems best suited to contaminated sediment cleanups. It offers a forum for a two-way exchange of information, engages representatives of the community (as opposed to outside experts or interest groups), and allows government agencies to ensure that the final decision falls within the applicable regulatory framework. The key to its success over other methods, such as alternative dispute resolution or simple public notice and comment provisions, is the government's commitment to incorporating the feedback from the advisory committee into the final cleanup solution.

To establish the advisory committee, it may make sense to work through existing groups, such as a RAP community group, to create a balanced and representative structure. If there are no existing groups, you will need to use the contacts that you have cultivated in the community to find representatives. It is critical to ensure that the committee is well balanced and representative of the general public, environmental interests, municipalities, industry and business, and government. At the same time, it should not be so large that it is too cumbersome to be effective. A committee of less than 30 people is ideal – to maintain this size, it may be necessary to ask the various interests to select one or two people to represent them on the committee. So that these representatives have credibility among their constituents, they *must* be chosen by their constituents, and not by the convenors of the committee.

Getting the committee off the ground and working together will likely be one of the most difficult and critical times in the project. This may be the first time that some of the interests on the committee have worked together and there may be issues of trust and conflict to resolve. A substantial amount of time and energy should be invested in

[5] For more information on this topic, we refer the reader to *Public Participation in Environmental Decisions: An Evaluative Framework Using Social Goals*. Thomas C. Beierle, Center for Risk Management, Resources for the Future. 1998.

starting off on the right foot and getting buy in for a collaborative decision making process. If not, the committee may be rendered useless by its members "drawing a line in the sand", which will cause trust to go down and conflict to go up.

Agreeing on a process

The committee's first task, guided by a neutral facilitator, should be to agree on the process they will use to make decisions and the ground rules for participation in the committee. These can be difficult decisions, but they are also the first benchmarks of collaboration, success, and forward momentum – continuously recognizing these benchmarks is critical to keeping members interested, involved, and feeling as though they are making progress.

Defining fundamental interests

Once the ground rules are decided, the next task is to find agreement on the project goals and objectives. Before doing this, however, committee members should identify their fundamental interests. Their fundamental interests are those things that underlie their stated positions – these are the members' true objectives.[6] As an example, consider the case of a large scale sediment cleanup in New York state. The *position* of the environmental groups involved is that the river should be dredged. *Their fundamental interest* is that the river, its ecosystem, and the people around the river are protected from the harmful effects of the PCBs in the sediments. The position of the company responsible for the pollution in the river is that the river should be left alone, so that nature can take its own course – that dredging will do more harm than good. However, their fundamental interest is the bottom line – avoiding an exceptionally expensive cleanup. Differentiating between member's fundamental interests and positions opens up some room for negotiation. There may in fact be a solution that satisfies most or all of the committee members' interests, even if their current positions are fully opposed.

The fundamental interests of members become, in a sense, the project goals. If members have a difficult time defining their interests, it may help to conduct a community visioning process to help people better define and enunciate what they would like to see as the future of their resource. Defining these interests is a critical step in finding the areas in which agreement may be reached. This step should be given plenty of time and resources, as it will play an important role in the success or failure of the public involvement effort.

Developing criteria for success

Each member of the committee must now decide what criteria would constitute an acceptable solution. These criteria are a method of measuring whether or not a person's fundamental interests have been met.[7] In the case above, the environmental groups'

[6] *Involving Citizens in Community Decision Making: A Guidebook*. James L. Creighton, Ph. D. Program for Community Problem Solving. 1992.
[7] *Ibid*.

criteria for success might be a PCB level in the fish of 0.05 parts per million or less. The idea is to focus on how to measure your end goal (your fundamental interest), as opposed to how you think you want to get there (your position). By putting the committee through this exercise, you are trying to enable people to be open to different solutions that might also achieve their ultimate goals, but might not be in line with their initial position.

Identify Cleanup Alternatives

The second step in deciding how to address a contaminated sediment site is identifying cleanup alternatives and screening technologies that might be applied. This is where you need to provide the committee with the most information and technical assistance, and where you must make sure that all committee members have equal access to information and are working from the same knowledge base. You will need to provide sediment assessment information specific to the site in addition to information about available cleanup alternatives. You will also have to be clear about any regulatory constraints that may affect your selection of a cleanup technology.

At this point, community representatives may need assistance to evaluate technical information. It may be possible for the agency involved to provide a staff person trusted by the public to work with the community. Another alternative is the Technical Outreach Services for Communities (TOSC), where independent technical assistance is provided through a university. The most widely used form of technical assistance to communities is the Superfund Technical Assistance Grant (TAG). However, administering these grants is extremely burdensome and may not be realistic for community groups. We recommend an alternative system of smaller, more frequent and targeted grants with much lighter grant management and administration requirements.

The committee should use the information to jointly identify cleanup alternatives. If possible, this should be structured as a brainstorming session to avoid associating member's names or affiliations with a particular choice. The committee should sponsor a public forum to present their list of alternatives to the broader public. With comments from the public, the committee should work together to narrow down the list.

Project Design and Siting

Now comes the tough part. The committee must now select one or more of the cleanup alternatives that they have identified and design the project. And they must determine how and where to site the cleanup alternative that they select. At this point, the committee should be seeking one or more alternatives that fit members' criteria for success identified early in this process.[8] If the criteria were well defined from the beginning, this should be a matter of thinking creatively as to how to achieve them. However, if the criteria were not well defined – if they measure members' positions rather than their fundamental interests – the group may have to revisit their criteria. It will be important for the group to have a skilled neutral facilitator to lead them through

[8] *Ibid*.

this discussion. The end solution will require many members to abandon their initial stated positions, causing some discomfort. However, a good solution will still achieve the fundamental goals of all members.

Once the committee agrees on a solution, each member needs to gain the support of his or her constituents. This may also take some work, as some constituents may still be wedded to a particular position. However, this is an essential step to gain ultimate public acceptance.

The committee should present their recommendation to the general public as a group for final comment. They should then incorporate any last comments, finalize their recommendation, and gain formal commitment from all parties represented in the committee for implementation.

Project Implementation

The committee still plays an important role as the project gets off the ground. As a unit, they can seek funding for the project, approach other organizations for support and involvement, and update the community at large through open houses, newsletters, press events, and other outreach. They make sure that the project keeps moving along and they provide a forum for questions and continued input from the public. They should also monitor and promote project successes so that all involved see that the project is moving forward.

Celebrate Successes

This is a critical part of any long process where the public is involved. To keep people interested and active, you need to show that they are achieving benchmarks of progress and that things are moving forward. They need to know that their participation makes a difference. This means celebrating success throughout. Each one of the steps outlined above has at least one benchmark that should be celebrated at its conclusion. Everything from the committee developing its ground rules to developing its final cleanup plan should be noted because it is all important progress.

We hope that this model will be of use to people taking on contaminated sediment cleanups. We urge you to give it a try in the hope that, despite its higher costs up front, it will smooth the way for faster, and ultimately less expensive solutions to one of our more challenging environmental problems.