

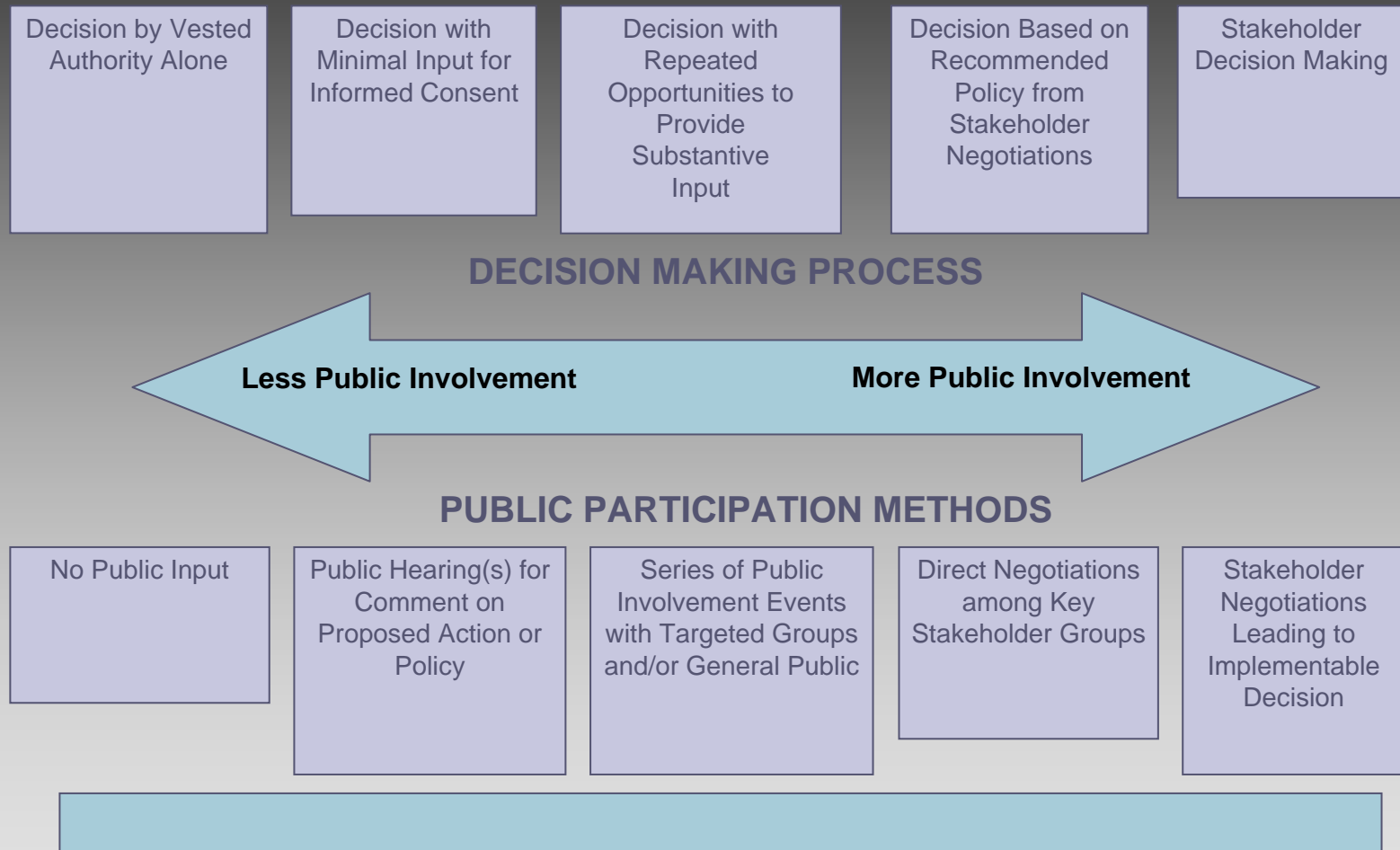
Session III
Lessons Learned:
Overview and “State of the Art”
Knowledge on Public Involvement

Gail Bingham
RESOLVE
October 23, 2006

Objectives

- Provide overview of public participation and consensus-building tools in public decision making.
- Note characteristics of public issues that affect citizen/stakeholder engagement and
- Highlight some principles of practice and cutting edge issues.

Spectrum of Decision-Making and Public Participation Processes



A Wide Variety of Consultative Approaches – EPA Public Involvement Policy 2003

<p>Information Exchange Provide and exchange data, opinions & options</p>	<p>Recommendations Provide non-binding, but influential advice or recommendations</p>	<p>Agreements Reach implementable agreement or settlement</p>
<ul style="list-style-type: none"> • Meetings with individual interested parties • Public hearings • Public meetings • Focus groups • Citizen Advisory Groups • Workshops • Roundtables • Listening sessions • Facility tours 	<ul style="list-style-type: none"> • Advisory Committees • Scoping sessions • Policy Dialogues • Technical workshops • Joint fact-finding processes on scientific, technical, or other data • Task Forces • Blue Ribbon Committee • Citizen Advisory Boards 	<ul style="list-style-type: none"> • Negotiated Rulemaking • Consensus permits • Settlement of litigation or enforcement actions • Memorandum of Understanding (MOU) • Statement of Principles (SOP) • Allocations of Liability or Costs.

Drawing on a Lengthy History

Phases:



1973-85

Building the Field



1986-99

Building the Practice



2000 -

Building Capacity

RESOLVE

Results Through Consensus

Building the Field

1973-1985

- Experimental phase – 200+ environmental mediations (defined broadly)
- Varied
 - locations
 - issues
 - levels of government
 - participants
 - degrees of polarization
 - objectives and process designs
- Positive results, sense of accomplishment, many lessons learned....

Snoqualmie River Case....



Interstate 90 case....



Building the Practice

1986-1999

- Significant expansion in use – both for national policy and more local or site-specific decisions
- Passage of federal legislation
- Creation of state offices
- Significant body of literature
- 100s of mediators, with formal section on environmental and public policy mediation in Association for Conflict Resolution
- Conflict resolution curriculum in major academic institutions

Food Quality Protection Act....



pesticide **regulation**

FOOD SAFETY

CASE

Food Safety and Pesticides

Challenge:
Everyone eats. We expect abundant and affordable food supplies while assuring that pesticide residues on food are with safe limits. But how do regulators set those limits when the science is evolving? How much risk are we as a society willing to accept - in 10 years, or a very small risk?

Result:
In 1990, the Executive Order facilitated a dialogue on food safety and pesticides. The diverse interests involved reached consensus on reforms to federal pesticide regulation, enhancements for the safety of imported foods, responsible pesticide use, and the development and use of safer pesticides and pesticide alternatives. In 1996, Congress passed the Food Quality Protection Act with the active involvement of many of the players who participated in the dialogue. The new provisions included revising the nation's approach to how risk assessments are done, including a specific mechanism to consider risks to children.

RESOLVE
25 Years of Results Through Collaboration

Long-Term HIV Care

treatment of

HIV/AIDS



Treatment Access for HIV/AIDS Patients

Challenge:

People with HIV/AIDS face a life-threatening disease that, when it first reached epidemic proportions, had few promising treatment options. In the early 1980s, experimental therapies, such as protease inhibitors, were not widely accessible to those in greatest need because of the stringent standards for regulatory review proceedings on determining whether a new treatment is both safe and effective. Patients increasingly asked to receive emerging treatments before the clinical trials and regulatory approvals were completed, and FDA officials and others began to ask themselves about the need to rethink how society provides both the greatest access and protection to those in need.

Result:

The Kavosko Center convened a national policy dialogue on expanded access to therapeutic drugs for HIV and AIDS at that time. FDA was reconsidering its regulations for protease inhibitors at the time, also considering the implications for other life-threatening diseases, and issued new regulations informed by that participation in the dialogue increased patient access to experimental treatment options both during clinical trials and by making drugs available in the marketplace sooner by expediting the approval process itself. The shared vision was that patients would get increased access to therapies, both during clinical trials and by treatments reaching the marketplace earlier, which in turn would increase the money to fund new research on treatment options.

RESOLVE[★]
25 Years of Health Through Innovation

Tobacco Control



National Drinking Water Regulations



Building Capacity

(Where we are today)

- Greater use, awareness, sophistication
- Conflict resolution specialists in federal agencies (ADRA), national roster (and White House conference)
- National Academy of Sciences Panel on Public Involvement in Environmental Assessment and Decision Making
- *and yet much remains to be learned and in a wider variety of applications*

Public Issues Pose Numerous Challenges

- Multiple parties, not just two.
- Inter-organizational complexity.
- Multiple issues.
- Many options (“forums”) for decision making.
- Public/political dynamics.
- Unequal power and resources.
- Cultural differences.
- Technical complexity and scientific uncertainty.

General Lessons Learned

- Conflict is not the problem; differences are normal (*principles of two-way communication and interest-based dialogue*).
- Collaboration and consensus-building can start before an actual conflict emerges (*be proactive*).
- Importance of government role (*supplement not substitute*).
 - Leadership... Legitimacy... Implementation.
- A shared assessment helps set the stage for success – all parties should feel they have something to gain from the process (*tailored processes*)

Principles of Good Practice

[modified from OMB/CEQ Directive]

- Purpose driven.
- Transparency.
- Balanced, voluntary, informed participation.
- Agency commitment/openness/resources.
- Group autonomy/self-determination/co-invention.
- Informed process.
- Accountability/responsive decision making.
- Timeliness.
- Implementation.
- Reflective practice.

Challenges

Stages in Collaborative Processes

Stage	Desired Outcome
1. Assessment/Convening	Agreement on approach: <ul style="list-style-type: none">• purpose• product• process (who, when...)
2. Substantive Dialogue <ul style="list-style-type: none">• opening• mid-game• closure	Shared understanding of the problem Full exploration of possible options Recommended solutions (joint gains)
3. Implementation	Action/Observable Change

Create the Conditions for Success in Convening a Collaborative Process

Diagnose the Challenges Early -- and in Communication with Stakeholders

- Conduct an assessment
- Seek agreement on scope of issues and desired outcome
- Ask who should be involved
- Clarify the questions -- *jointly* -- before gathering data

Create the Conditions for Success in Convening a Collaborative Process

- Determine whether well-developed factual base exists -- or can be developed – and identify ways for the public to obtain adequate technical support to participate
- Talk about trust, uncertainty, and the role of information in the decision making process
- Consult about what questions to ask, methods of data collection and analysis, and who does the studies ahead of time

Learn Together During the Dialogue Stage

- Generate multiple problem definitions
- Respect different types of knowledge and different ways of knowing
- Find adequate resources for participation
- Convene scientists from all sides to create a shared picture of what is and isn't known – and what remains in dispute

Learn Together During the Dialogue Stage

- Conduct jointly designed studies (“joint fact-finding) and/or create shared models
- Use interactive panels of scientists (selected by parties) to address stakeholder questions
- Establish collaborative technical work groups of scientists selected by the parties
- Share study design and consultant selection

Learn Together During the Dialogue Stage

- Synthesize information in users' vocabulary
- Create an explicit role for a “translator”
- Take field trips, jointly planned by those with experiential and scientific knowledge
- Build confidence intervals around controversial data – ask “what if” for different points in the range

Learn Together During the Dialogue Stage

- Focus on interests
- Don't get locked in; consider multiple options; be creative; ask "what if"
- Create value before claiming value (solve the "negotiators' dilemma")
- Use interest-based criteria to evaluate options – seek joint gains

Learn Together During the Dialogue Stage

- Decide what you can; agree on next steps
- Continue to ask ‘what information is essential for solving the problem?’
- Preserve ability to negotiate future problems.

Plan Ahead in Final Agreement/Implementation Stage

Think Iteratively

- Are key questions answered?
- Is the solution technically sound?
- Is the solution politically feasible?
- Are implementation safeguards in place; do incentives reinforce anticipated actions?
- Is the agreement able to be reopened if new data emerge?

Plan Ahead in Final Agreement/Implementation Stage

- Openly discuss the implications of ongoing uncertainty
- Make contingent agreements
- Is the solution balanced and fair to all interests?
- Identify remaining questions and make a plan for what to do with them next

Bottom Line

All parties should feel they have something to gain from participating.

What Are People Looking For?

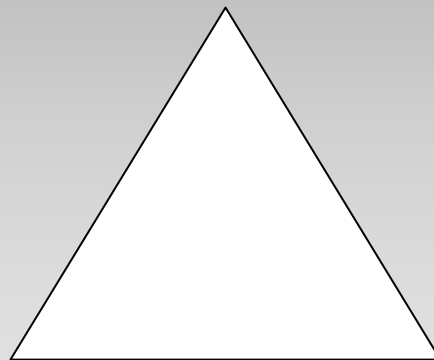
- Voluntary process, tailored to their situation
- Meaningful role/impact and improved relationships
- Improved understanding and better ideas
- Solutions that meet their interests
- Implementable results
- Less stress, less time, less cost

Successful Collaboration

Participants seek three dimensions of satisfaction

substance

process



relationship

Relationships Matter

- Be inclusive
- Make decision making transparent
- Check assumptions – ask questions and listen with respect
- Talk about values.
- Get to know one another as individuals.

“Communication is about who is listening, not who is talking....”

Anonymous

Process Matters

- Negotiate the process choices
- Build agendas cooperatively
- Level the playing field for all participants
- Define fairness and adhere to the definition
- Balance competing interests

Substance Matters

- Invest in sound information and analysis
- Focus on interests not positions
- Engage in shared learning
- Seek options with joint gains
- Plan for implementation

“Gettin’ good players is easy.
It’s getting them to play
together that’s the hard part.”

Casey Stengel

RESOLVE

Results Through Consensus