

2.5 SOUND RATIONALE FOR PROGRAMS: KEY TO SURVIVAL

Management programs developed through the process described above should have a positive effect on fisheries resources. Programs, however, may be canceled prematurely by legislative actions on agency budgets or by a lack of public support. Therefore, defensibility is an important characteristic for program survival. Use of a goal-oriented approach to management will help ensure that sound rationales exist for fisheries management programs. Fisheries managers and the management team will then be able to explain the rationale behind past and planned agency decisions and subsequent actions.

Defensibility is especially enhanced when public involvement has occurred throughout the development of the management program. In this chapter, we have identified some key steps in the management process at which direct public involvement will assist and improve fisheries management. In addition, agency personnel need to communicate with (including listening to) the public about the current status of management programs. An informed public is a most effective ally when a fisheries management agency needs support to maintain its programs.

2.6 CONFLICT RESOLUTION

2.6.1 Resolving Conflicts: Part of the Fisheries Manager's Job

Don't be surprised but be ready—conflicts will inevitably occur in a fisheries management career! Understanding the nature of conflicts will help a fisheries manager anticipate and respond to them appropriately (Carpenter and Kennedy 1988; Gale 1992). All change, including new directions for management programs, will produce conflict among resource users, between an agency and its stakeholders, and sometimes within an agency. Conflicts can occur between anglers and other aquatic resources users, such as canoeists, municipal water supply authorities, and industry. Tensions can also exist within fisheries, such as between commercial and sport fishing or between those who fly-fish and those who use bait. Stakeholders in a fishery may demand an agency to stock nonnative fishes which may be in conflict with long-term agency goals to restore native species. Unfortunately, conflicts among fisheries professionals also occur and can be between employee and employer, between central versus regional offices, among state agencies, among university researchers, among states, and between countries. A good manager must learn to manage to prevent conflicts and, when conflicts exist, to negotiate these conflicts to a positive end. Conflict prevention by using sound communication with stakeholders (Chapter 3) and by making sure to

involve stakeholders appropriately in programs is a key approach. Not all conflicts, however, can be prevented. The fisheries manager must be able to resolve conflicts efficiently when they occur. A short excellent text on this subject that every manager should read is *Getting to Yes—Negotiating Agreement without Giving In* (Fisher and Ury 1991). Most of the material below is drawn from this reference.

2.6.2 Good Negotiation Procedures: Three Essential Characteristics

Three criteria should be used to judge negotiation procedures used to resolve fisheries management conflicts. First, the procedure should produce wise agreements. Resolution of a conflict should produce an agreement that best meets the interests of all parties and should be durable. Second, negotiation procedures should exhibit a level of efficiency—they should not require an extraordinary amount of time to reach a wise agreement. Third, the negotiation procedures used to resolve conflicts should improve, or at least not damage, relationships among parties. Usually some link exists among the parties that will probably cause them to continue to interact in the future. Damaged relationships today may affect future negotiation outcomes tomorrow. The negotiation procedure used should meet these three criteria.

2.6.3 Positional Bargaining: Poor Decisions, Lengthy Negotiations, and Damaged Relationships

One generally bad approach to conflict resolution is called positional bargaining. With this approach, each side states a position, argues for it, and then makes concessions to reach a compromise. Because concessions will be made, the best strategy to take is to state initially an extreme position so that after concessions the agreement will be satisfactory. Most often the end result is a situation where one side views themselves as winning and the other side as losing. Unfortunately, many agreements reached by this process results in both sides losing. This approach is common when buying used cars—“This car is pretty bad, but I will give you \$1000 for it.” Positional bargaining often characterizes the outset of conflicts between user groups (“Double the stocking!”) and a fisheries management agency. How an agency responds to the initial position by the public will establish whether positional bargaining is used to resolve the conflict or whether an alternative approach is used.

What is wrong with positional bargaining? Central to this approach are the stated positions between the parties. Nowhere in this process is there an identification of the underlying interests or real concerns of the parties. Instead, a regular sequence of attack and defense of the stated positions characterizes this approach. Because little or no attention is given to meeting the interests of the other side, positional bargaining encourages a selfish attitude toward proposed solutions. Negotiators often develop a personal identification with a stated position, and thus an attack on the position by the other side is interpreted as an attack on the person who stated the position. A strategy for success is to take an extreme position and then drag out the negotiations and wear out the opposition to gain substantial concessions. Thus, success with this approach often requires dishonesty or deceit about what you want (take an extreme position as opposed to an honest one), is time inefficient (drag negotiations out), and endangers

your future relationship with the other side (bend others to your rigid will). Thus, positional bargaining will not produce wise and durable agreements that meet the interests of both parties, it is time inefficient, and it hurts relationships. Because the criteria stated above for judging negotiation procedures are violated, fisheries managers must choose a different approach.

2.6.4 Principled Negotiation: A Focus on Interests, Not Positions

What is an alternative, better approach to conflict resolution?—principled negotiation (Fisher and Ury 1991). Principled negotiation focuses on the interests of all parties (as opposed to positions) and chooses the best solution to meet those interests among many potential options. The approach has four basic elements:

- people—separate the people from the problem;
- interests—focus on interests, not positions;
- options—generate a variety of possibilities before deciding what to do; and
- criteria—insist that solutions be based on objective criteria.

These elements are incorporated throughout a cyclic process of analysis, planning, and discussion.

First, separate the people from the problem. Conflicts bring out strong emotions in people that get in the way of wise agreements or solutions. The emotions of all sides must be understood and respected and should guide communication. Understand all sides' perception of the conflict, their personal feelings, fears, hopes, and dreams. Their perceptions, even if ill founded, are their terms of reality and must be addressed in the negotiations. Remember, understanding their point of view is not the same as agreeing with it. Negotiations create anxiety or fear because of the perception of a win-lose outcome—parties to the negotiations fear being the losers. Fear breeds resentment and then anger, and anger causes fear...and on it goes! Try to create the perception of a win-win outcome. Last, learn to communicate based on an understanding of all sides (see Chapter 3). Rehearse what will be said and listen to it through the participants' ears. The goal is to speak to be understood. Say the same concept several ways (repetition) and concisely (succinctly). If possible, try to build a relationship with all parties before the negotiations begin. Success with the "people element" will have occurred if the parties negotiate as though the problem is the adversary rather than each other.

Second, focus on interests, not positions. The needs, desires, concerns, and fears of all sides must be identified. A key concept here is to explore the reasons behind any stated position—this is the interest. For example, an agency states they want to reduce the lake trout bag limit from three fish to one fish in Lake Ontario. Anglers counter that they will not allow the agency to reduce the bag limit. In this case, the agency's interest may be that it needs to reduce lake trout mortality so fish can reach maturity and reproduce. The interest of the private anglers may be that they don't want their fishing success reduced. The charter fishing industry's interest may be that it's worried about its business. Mutual or shared interests must then be identified as well as those that are opposed or mutually exclusive. Considerable rapport can often be gained among the parties when a clear statement of each of their interests is made. When negotiations are

tense, some tensions will be eased if each party knows that its concerns are understood. Knowing the other parties' interests is a key piece of information required to develop options that can meet some of the interests of all sides.

Third, invent options for mutual gain. The ideal is to generate options that address the interests of more than one party in the negotiations. Options should be created by brainstorming or inventing as many options as possible without attempting to judge the merits of each. The purpose is to increase and stimulate the development of creative options and not to look for a single answer. Once a list is generated, then each option should be evaluated (see below) for its potential to produce mutual gain among the parties.

Fourth, insist on objective criteria. Almost always, some interests will conflict. Choices ultimately will have to be made that favor one interest over another. Criteria, standards, or procedures must be determined by which to make these decisions. If possible, gain agreement among the parties at the start of a negotiation on the standards to be used. Types of criteria could be past precedence (past settlements of fisheries issues), external, independent scientific judgement (e.g., for issues over commercial quotas), professional standards (e.g., government salary ratings), minimization of costs, moral standards (e.g., fairness), equal treatment (a 50 to 50 split), and reciprocity. One well-known approach used by parents to allocate the last piece of cake between two children is "one cuts and the other chooses." This approach could be used to solve a conflict between commercial and sport fisheries over zone regulations. If zones between the two activities must be chosen, then one group could set the boundaries for the zones and let the other group choose an equal number of sport and commercial zones.

These four elements must be carefully woven into the negotiation process of analysis, planning, and discussion. Analysis is knowing or defining the current status of the conflict, gathering all possible information about all sides, knowing your interests and those of the other parties, and knowing the time constraints that may be driving the need for resolution. Planning is next and requires choosing tactics to use to solve problems, setting your own priorities, identifying mutual interests shared among parties, and generating options for solutions. Analysis and planning are done before meeting with the other parties. Discussion is the actual communication or negotiation with the other parties. Sometimes having a professional facilitator who is neutral can be helpful for this discussion phase. A facilitator familiar with group decision-making techniques (e.g., Coughlan and Armour 1992) can help guide a group efficiently toward resolution of a conflict. Usually several meetings will have to take place before agreement will occur. Thus, after each discussion step, analysis and planning should occur before the next meeting.

Conflicts occur because fishes and the fisheries they support are important to many people in different ways. Attempting to resolve conflicts through positional bargaining can damage relationships and often results in less than satisfying solutions. Principled negotiation procedures have been developed to produce wise, durable agreements in a time-efficient manner and to provide an opportunity to build relationships. Because conflicts are a part of the life of a fisheries manager, conflicts should be accepted as a characteristic of the profession and approached with confidence using the negotiation techniques presented here. Conflicts often provide exceptional opportunities to promote better understanding among groups and to educate others concerning the benefits of wise stewardship of natural resources.