

Proceedings, The Range Beef Cow Symposium XX
December 11, 12 and 13, 2007 Fort Collins, Colorado

WORKING WITH FEDERAL AGENCIES TO DEVELOP WIN-WIN PROGRAMS FOR RANCHERS AND THE PUBLIC

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INTRODUCTION

In the west, producers often find themselves working with a federal agency in some sort of partnership. In public land areas, the most common relationship revolves around United States Forest Service (USFS) or Bureau of Land Management (BLM) grazing permits. However, there are many producers, far removed from USFS or BLM lands, who are involved in some sort of relationship with governmental agencies. The Natural Resource Conservation Service springs to mind as an agency which many producers partner with. Others include Farm Service Agency, state wildlife management agencies, state lands agencies, Bureau of Reclamation, Fish and Wildlife Service, to name the more prominent.

There is no question that there is a wide range in the quality and complexity of the relationships that producers may have with any one agency. In fact, it is quite probable that producer opinions of the various agencies they may have an arrangement with will vary across the spectrum. The list of reasons for differences in the quality of those relationships can be lengthy. Nonetheless, it should be heartening to know that thoughtful management of those relationships can yield positive results. It is the task of this paper to provide insight to building Win/Win programs with federal agencies.

FOUR THINGS WHICH MUST BE UNDERSTOOD

1. Everybody likes success
2. If you want the relationship to be durable, it must service the interests of both parties in the relationship – A Win/Win proposition
3. Focus on interests, rather than positions. This is the difference between building partnerships and propagating an environment of competition, suspicion, and distrust.
4. Win/Win relationships must be fair. The balance between satisfying interests and resources invested must be reasonable for both sides.

EVERYBODY LIKES SUCCESS

Here is an important point often overlooked, particularly by producers. When entering into a negotiation with a federal agency, producers certainly are motivated by whatever they believe the relationship can offer. They are likely to have a financial stake in the outcome. Success will improve their lot in life. When they look at the other side of the relationship, whether it be a range specialist, conservationist, or game warden; a producer often tries to assess the motivation of the other side employing the same measures they might use. However, an agency employee won't have that same set of motivating factors a producer might have to engage in the partnership. Their motivation more likely is rooted in professional responsibility and personal values aligning with the program objectives. Additionally, and importantly, there is considerable motivation for the agency employee arising from their relationship with their supervisor. Supervisors like success; employees are rewarded when they can demonstrate successes. The

successful development of a Win/Win relationship is certainly a plus for the agency and the agency's worker.

DEFINING WIN/WIN

Though it may be apparent, it will be useful to provide some definition to what we consider a Win/Win situation. Simply stated, you've achieved Win/Win when the interests of the parties in the relationship have been satisfied.

In addition to Win/Win, there is a group of alternative outcomes. Stephen Covey, noted management guru, encourages "Thinking Win/Win" as his fourth habit of highly successful people. He explains that there are six philosophies of human interaction:

Win/Win - Where people can seek mutual benefit

Win/Lose – A competition based relationship where one party wins and the other loses. A relationship shaped by power and a situation which seldom generates an amicable relationship.

Lose/Win – A relationship rooted in the hope that one can be accepted by "getting along" - often at the cost of proper representation of the loser's interest.

Lose/Lose – An adversarial relationship degraded to the point where the only objective becomes making the other side lose, even if it means losing, too.

Win Only – A strategy where one focuses only on getting what one wants, regardless of the needs of others.

Win/Win or No Deal – A strategy where one or both parties approach the deal with the attitude that if they can't forge a win/win solution, they agree to disagree and walk away with no deal.

Of these various scenarios, there are certainly differences in the quality of the partnership resulting from those basic interactions. One could argue that there is likely to be differences in the quality of the result as well. In addition, there is little argument that the long term durability of the result is much more likely if one achieves a Win/Win relationship.

To bring that to a sharper focus, consider Figure 1 which examines four potential outcomes of a relationship. In the win/win area, the interests of both parties are addressed to the satisfaction of all. Since everyone's interests are satisfied, there is considerable motivation to continue that healthy relationship. Contrast that with the area where both parties lose. When no one is satisfied with the relationship, either the relationship will be dissolved or the parties will launch a struggle to better serve their interest. Depending upon the power distribution in the relationship, the balance easily could shift to where one party has the upper hand, but the stability of the relationship will continue to be threatened. Finally, there exists opportunity to move toward Win/Win from any of the quadrants, providing there is considerate and thoughtful dialogue dedicated to making sure that all interests are adequately addressed.

Figure 1.

	Agency Wins	Agency Loses
Producer Wins	Long lasting, solution oriented relationship. Resource benefitted for the good of all	Producer Happy, Agency Unhappy. Agency driven to attain their goals. Producer continually threatened
Producer Loses	Agency Happy, Producer Unhappy. Producer continually “trying something”. Agency distrusts	Short-term, Unstable situation.

ELEMENTS TO BUILDING WIN/WIN PROGRAMS

The underpinning of a Win/Win program really is the quality of the relationship between the program’s partnerships. Building a relationship can be viewed as a negotiation: Potential partners have something to offer, and each have something they wish to gain. If we look as a negotiation process we can bring to bear a tremendous body of information regarding negotiation.

There are different styles of negotiation, depending on circumstances. Where you do not expect to deal with people ever again and you do not need their goodwill, then it may be appropriate to "play hardball", seeking to win a negotiation while the other person loses out. Similarly, where there is a great deal at stake in a negotiation, then it may be appropriate to prepare detailed “gaming” strategy for the purpose of gaining advantage. Neither of these approaches is usually much good for developing a healthy co-dependent relationship which you need to be durable. If one person plays hardball, then this disadvantages the other person; an outcome which may, lead to reprisal later. When people are going to work together routinely, honesty and openness are almost always the best policies.

When we are working toward Win/Win programs with a federal partner it is nearly always true that one of the outcomes of the negotiation must be a durable, healthy relationship. Trust is a prerequisite to maintenance of the relationship and so we should easily recognize “hardball” negotiation and “gamesmanship” as poor strategies for reaching solutions.

POSITIONS VS. INTERESTS

Two negotiation styles often practiced are: 1) Positional Negotiation, and, 2) Principled Negotiation. One of the fundamental differences in these approaches is the starting point. Do you initiate the negotiation with your position? Or, do you begin with disclosure of your interests? All of us are motivated to look after our interests. Often we bypass discussions about interests in order to “sell” a solution already determined to suit that interest. This is our position. We do this because we are human and frame our responses within a framework of experiences,

values, and needs. My position is my proposal to satisfy my interests. My position may or may not address the interests of the other party.

The essential differences between this pair of negotiation styles are summarized by Dr. Kelsey Gray:

Win/Lose Dispute Resolution	Interest-Based Problem Solving
Step I – Position (answer): Proposal or solution to the problem	Step I – Interest (value or belief): Principles that need to be satisfied if the conflict or dispute is to be resolved with each party willing to participate in implementing the solution.
Step II – Rationale (reasons) Logical arguments for the solution, often based on data.	Step II – Issues (what): Items rooted in interests that must be addressed and resolved if satisfaction is to occur.
Step III – Problem Definition: Description of the problem that will be solved by the solution.	Step III – Solution (how): Proposals as to how the issues might be addressed in order that all parties’ interests are met

Interest-based problem solving emphasizes first understanding each party's motivating interests rather than focusing on the positions or solutions. The difference between interests and positions is important to the development of workable resolutions. Sharing why an issue is important allows others to help in the development of a workable solution. When all parties value and respect the interests and understand the issues compromising that interest, there is a better chance of developing a variety of solutions. Interests help to identify what part of the solution is important to each party.

While underlying interests of both parties may be similar, identical interests are not a prerequisite to crafting a mutually beneficial relationship. However, if the underlying interest turns out to be the same for both parties, development of the relationship can be very rapid. When developing programs with federal agencies, often it is easy to identify common ground, namely “sustainability of the resource.”

The differences between position based negotiation and interest based problem solving are stark. Contrast the positional statement with the interest based statement:

“I want to do my X because it will yield my Y, and therefore my Z will be better”

“Because of our A, our B needs fixed, and C will fix the B and our A will be improved.”

By abandoning preconceived solutions – “positions”, and focusing on interests it becomes much more likely that both parties can craft a WIN/WIN which addresses everyone’s interests.

IMPORTANT ELEMENTS OF PRINCIPLED NEGOTIATION

When the interests are identified and shared it is often a revelation to the other side. Sharing interests sets an attitude of frankness, providing an opportunity for recognition of individual differences. Stating interests also will set in motion thought processes regarding what actions or features of a program or relationship might begin to service those interests simultaneously. Frequently there might be thought about how to adapt one’s position in the light of shared

information and attitudes. Fisher and Ury presented “Four Elements of Principled Negotiation” in their book “Getting to Yes.” These simple four elements serve a program builder very well:

1. Separate the people from the problem

All too often in negotiations we confuse our feeling about the person we are negotiating with, and the problem we are trying to address. To be successful, we must recognize that there is that dual dimension to the relationship; the people and the problem. Negotiators must look past the person and see the prize – that their interest will be satisfied. When both negotiators focus on attacking the problem, rather than attacking each other, they will be much more successful. Attacking each other is a sure sign of reverting to positional negotiation.

2. Focus on interests, not positions

Looking beyond positions and making an effort to identify and understand what another persons real interests are provides tremendous power. It is a useful habit in all aspects of life, not just negotiations. Positional negotiation, by definition, masks the real issues of what the parties actually want or need. Focusing on the underlying interests will provide a better insight into why they adopted the positions in the first place and will greatly facilitate finding Win/Win solutions or combinations of solutions.

3. Consider a variety of possibilities before deciding what to do

Positional negotiation fosters an adversarial environment destined for a win/lose situation. Struggling to achieve a predetermined position will inhibit creativity. If we can focus on interests it is easier to consider multiple solutions, and in most cases there are more than one way to satisfactorily address the interest. When both parties can step back and jointly consider how to address the interest, it is likely that options will surface that neither party individually would have come up with had they been fixed in positional negotiation.

4. Insist that the result be based on some objective standard

Insist on using objective criteria for judging success of the program. Negotiations will be less contentious if the issues can be evaluated using an agreed upon standard. This could include outside expert opinion, reliably collected data, or some quantifiable method. Subjective evaluations, taking the form of opinions of the negotiating parties, tend to degenerate into the same personal attacks found in positional negotiations.

SUMMARY

Building Win/Win programs which satisfy the interests of the partners in the program involves creating and nurturing a relationship which acknowledges the interests of the partners. Those interests may not necessarily be the same, but often a program can be built which simultaneously satisfies those different interests. In order to develop an understanding of those interests and examine alternatives which serve the interests of the parties, it is important to abandon position-based negotiations and adopt interest-based negotiation techniques. These techniques stimulate openness and trust in the relationship, which when coupled with the program’s probability of achieving the goals, assure a durable and successful Win/Win program.

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