

PERSPECTIVE

The Ethics of Opposition,
Part Two

Thomas R. Cuba

“The Ethics of Opposition” appeared in issue 4(4) of *Environmental Practice* and implied that there would be a second essay on the topic. The article has elicited some interesting response from the readers. Part Two, along with some reader comments, is presented here for your consideration.

In the previous article, the Environmental Professional is put in a position of advising the client on how to “kill a project” based on factors other than ecology or engineering. The points to now ponder are these: What happens to our ethics when we act as general consultants and not as Environmental Professionals? What happens to our ethics when, as consultants, we hear false testimony of others? What happens when we are falsely quoted? And, finally, what are we to do when we are aware that relevant information is being suppressed by others?

The first point was the one highlighted in the previous essay. Who among us can say that we are limited to knowledge contained in the definition of an Environmental Professional? We live and work in a political, bureaucratic, paralegal, emotional, dynamic world. Our educations lie within the realm of the Environmental Professional, but our experience has given us skills well beyond those of engineering, education, geology, chemistry, ecology, and so on. Many of us have qualified as expert witnesses in matters of public administration and even the use of mass media. That experience alone qualifies us to act as a non-Environmental Professional consultant. Many of us know exactly how to “kill a project” politically. Many of us use these same tools daily to help obtain approvals for good projects, when ostensibly acting as an Environmental Professional. Who among us has not simply been pleasant or schmoozed with a staff member in order to add the “warm fuzzy” element to the project review?

In the essay “The Ethics of Opposition,” I exposed the other side of this talent. When

asked to use these same skills, those gained of experience beyond the Environmental Professional, what ethics apply?

One reader pointed out that the first ethic may be to examine one’s non-Environmental Professional skills and make certain that one is in fact qualified to act as a non-Environmental Professional consultant. He correctly points out that to accept such work without the skill set is “cheating your clients.” The appropriate response would then be a referral to another individual.

If, however, you find that you are qualified to do this consulting, I suggest that the same code of ethics apply, even though you are not acting as an Environmental Professional. As the readers responded, “You still have to tell the truth.” We, as a group, cannot simply alter our code of conduct based on the scope of work. Our ethics must apply to us as individual people and not just as Environmental Professionals. The ethical code, to be effective, must permeate our daily activities completely. I challenge you to conduct a self test. Pick a non-client group, your employees or co-workers, for example, and then read the Code of Ethics¹ while keeping your relationship with them in mind—as an analogue to the client. The test is not perfect, but it challenges the Code and our conduct. It is simply meant to be a means of self-evaluation.

A second circumstance presented in “The Ethics of Opposition” is how one should react when another party (not associated with the client) makes dramatic, unfounded, or even manufactured claims of pending environmental disaster. The party is on the same side as your client, but you know he or she is lying. Your responsibilities here are obvious. First, you advise your client that the other party is lying. Second, you advise your client of the benefits of maintaining distance from such lies and how to increase their own credibility. The client has the option of taking your suggested action: you would not be required to refute the lies of the third party. If, however, you are recognized by a panel as an Environmental Professional and asked directly about the environmental claims, you must state your own professional opinion, regardless of the effect on your client or the procedure. You do not have to disassemble

the other party’s opinion, just state your own. Similarly, if the third party misquotes you, you are obliged to obtain the attention of the panel and correct any false statements. These are the demands of your ethics.

How does all this work? The key is in making a successful transition from consulting Environmental Professional to General Consultant. In the previous essay, the Environmental Professional told his client (a neighborhood group) that a project to which the client was opposed (an additional campus for the local community college) was not going to create an environmental disaster. The client expected an increase in crime and speeding, new bars, and the general disorder associated with a new school project. *These* are the issues you would coach the client to examine and develop as the basis for concern—not environmental ones. This may require the acquisition of sociological sub-consultants. The point is that although the client has important concerns, they don’t involve environmental issues. The client is entitled to professional representation of their concerns, and *all* facts must be clearly brought forth and stated.

Finally, a reader raised a point that I had not anticipated. Earlier in this article, I have addressed what to do when a third party not on your client’s team (but on the same side as your client) misrepresents facts. But the reader asks, “What do you do when you see your client or a member of your client’s team suppressing information?” The reader asked, “Do you tell someone, or keep quiet because you work for them?”

As a consultant, of whatever ilk, you are required to give your client the best information available. As a consultant, you are required to allow your client to make his own decisions on how to use that information. As a consultant, you are not required to maintain a relationship with those who conflict with your own standards of conduct. In the situation presented by the reader, you are obliged to advise your client of the impropriety. You are not obliged nor expected to advise the other team members, or anyone outside the team, unless asked directly in an appropriate setting. It is only when the situation worsens to the point that actual environmental damage is being done that you are

obliged to go to the authorities, but again, not without advising your client first and, hopefully, in a preemptory manner. This is mandatory.

I am not aware of how other individuals handle these situations, but when I negotiate a contract with any new client, I advise them of my ethics, and include this statement in the contract:

Delta Seven, Inc. is a Registered Florida Professional Environmental Corporation. All work conducted by Delta Seven, Inc. shall be in accordance with the Code of Ethics and standards of conduct and practice of the Environmental Professionals of Florida, Inc.²

Including a statement such as this in the contract assures that the client knows that your allegiance to your ethics supercedes your al-

legiance to the project, and that you contractually reserve the right to walk away if the client or his team gets out of line. The statement can easily be modified to refer to the National Association of Environmental Professionals (NAEP) ethics. This has the effect of taking the Code of Ethics out of the NAEP membership packet and incorporating it into one's daily routine. The statement elevates the ethical standard from the individual level to the corporate level.

The discussion does not end here. Let us presume that the reference to ethics was in the contract. Let us assume that the client was aware that you could simply walk away. If that were to actually occur, could you then join the other side? E-mail me at Tom.Cuba@Delta-Seven.com.

Notes

1. For those readers who are not members of the National Association of Environmental Professionals (NAEP), the Code of Ethics may be found in the back of each issue of *Environmental Practice*.
2. The Environmental Professionals of Florida, Inc. is a non-501(c)(3) organization of individuals and corporations who have adopted the NAEP Code of Ethics by contractual agreement as a basis of membership.

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