Remarks of Assistant Secretary of the Interior John A. Carver, Jr., at the 55th Western Forestry Conference in Spokane, Washington, December 3, 1964

How to Communicate with Government

This conference has undertaken an ambitious and worthy project in its concentration on forestry's communications problems. I am pleased to have a part on the program.

We are fond, these days, of saying that almost every area of policy conflict or disagreement is a "problem of communications." I am not sure that this is entirely so. Reasonable men do not always agree after all the relevant facts have been successfully communicated. Indeed, disagreements may become the most pronounced after the antagonists come fully to understand each other's real position.

Nevertheless, the President has emphasized many times that the process of reasoning together can pay
great dividends, and his own performance has demonstrated the correctness of this view. Irreconcilable or seemingly irreconcilable interests have been brought together in a reasoning atmosphere for some very productive results -- for example, the agreement for the Northwest-Southwest Power Intertie earlier this year.

In the field of land and resource administration, of course, diversity of interests and rigidity of position is particularly pronounced. In the Interior Department we have sought to carry on our management responsibilities in the constructive climate of assuming that the commercial users are conservationists, too. This simple attitude has paid dividends. Adopting it has removed obstacles to communication, not only between citizens and government, but also among the various groups who have an interest in how the land
is managed, even though their respective viewpoints have been considered incompatible.

The other day I received a letter with this intriguing paragraph:

"Perhaps more important than this accomplishment of the conference is the fact that for the first time in history we had a gathering of so many different land user groups willing to move toward a common solution of problems which they realized transcended their narrow, competitive interests. It is not too many years ago that I would have taken care to stay away from a gathering of, say, sheep and cattle men. Recognizing that the problems of competing uses are becoming more acute, I believe there is considerable hope for their solution to be found in the fact that judgments as to relative values are maturing."

Opening up the advisory boards of the BLM to user groups other than livestock and wildlife has had the same salutary effect. These experiences emphasize that the climate for communication is as important as the method of communication. There has to be a willingness to listen, as well as an opportunity to speak.
But it avails us little to speak generally in this area. Citizen and government are always reacting to each other, and each finds a variety of ways to speak to the other, and on a bewildering confusion of levels.

So let's start with the process of definition. If you should ask the man in the street how he communicates with the federal government, he'd likely return such a question with a blank stare until you reminded him of the things he has to communicate with the government about -- his national service life insurance, his postal service, his draft status, his social security eligibility, his views on pending legislation in Congress -- not to speak of his duck stamps, his entrance fee to a national park, his claim for a damaged fender when he collided with a government vehicle.
The lumberman who buys his timber from the government is hardly the man in the street. He knows the subject of his communication, or attempted communication, with the government; he knows the difficulties involved; and he has tried a variety of approaches.

He has joined associations of like-minded operators locally; he has joined national associations; he has hired lawyers; he has written to his Congressman, testified at hearings, and organized delegations to visit Washington; he has been appointed to advisory groups, and has made trips to the regional or state offices of the Forest Service or BLM; he's at his wits' ends sometimes.

Why?

It would be foolish of me to assert that there really is no obstacle to efficient communications
between the government and the lumber industry. Rather, I would like to analyze with you some of the possible reasons for obstacles which exist, to see whether together we can't get some insights into the underlying causes.

It may sound simple-minded, but I submit to you that one of the reasons for the difficulties in communication between the government and the lumber or timber people who derive their livelihood from use of publicly owned timber is simply because the government is the government.

You are accustomed to see the relationship of seller and buyer as quite a common one, one with well-established rules, basically a proprietary relationship not essentially different than the relationship between the seller of private timber and the buyer.
Government people, on the other hand, see their operations not as proprietary, but as governmental. They see themselves in the business of government, not the business of selling timber, and the rules for such activity are different.

Naturally there is going to be a good deal of difficulty in communicating about a transaction, if the parties to it are operating under different sets of rules. Canadian and American football are similar, and the teams sometimes play each other in exhibition games -- but only one set of rules can operate at a time.

What are some of the differences? Government must look to considerations other than the transaction itself -- considerations like the protection of watershed values, recreation, wildlife, and other multiple uses.
Sometimes, as in the O&C Act, it is authorized to look to the welfare of the local communities supported by the timber resource. International considerations, exports, and imports, balance of payments, and related matters may enter into the making of decisions. You can add to the list, of course. It is a long one.

These are by no means all negative considerations. Indeed many of them run in the interests of the operators, and are the subject themselves of communications with the government. For example, take the matter of Canadian imports. The industry united to ask the government to act to protect the United States industry. Or the Jones Act, or Japanese log exports -- the communications channels were open on these matters.

Allowable cut, rotation periods, working circle size, method of scaling -- in the technical aspects of forestry the government was approached with a clear
recognition of its governmental status, with a mutual understanding that there had to be a governmental policy, not a contractual accommodation with individual buyers, if the government was to execute its responsibilities adequately.

On the other hand, some of your communications with government have been frustrating in the extreme, because they have not seemed to you to involve truly governmental considerations, but rather perverse governmental prerogatives.

Probably it would not be a good idea for me to go into very many of these situations, but the highlights of a few will illustrate my meaning.

There is an established legal principle that the government cannot be bound by the unauthorized acts of its agents. There is another established principle
that the principal cannot deny the authority of his agent when that agent has been clothed with the apparent authority to speak for his principal. But the government, as the sovereign, is not bound by this rule. If you deal with the government's agent who in fact doesn't have authority to speak for the government, you can't argue that he appeared to have the authority.

Thus, one interesting recent case involved these facts. A logger bid on a BLM sale of marked trees. The logger discovered, after being awarded the contract, but before he had started cutting, that 45 of the trees were on private land. The BLM District Manager, recognizing the error, undertook to adjust matters, by marking 45 trees in an area clearly marked in the contract as "Reserved." When the supervising officials
found the trees cut in the reserved area, they assessed the contractor for trespass removal -- of trees marked for removal by an apparently authorized government agent. On appeal, it was held that the government wasn't bound by this agent's acts; that the contractor wasn't entitled to relying on them; that he was bound to have known that the private trees weren't available for sale, and that he was generally out of luck.

This case was straightened out, later, but the point I am trying to make is that this represents the kind of difficulty between the sovereign as timber seller and the buyer that couldn't arise between a private timber seller and the buyer. And because there doesn't seem to be any reason for this difference, the logger is baffled, and feels that his communications with the government are fruitless and frustrating.
I've heard other examples about post-audit of contract performance. The District Manager passes on a road as acceptable, and it washes out after acceptance -- he's told to put it back in shape if the washout occurred during the contract period.

A right-of-way contract calls for stumps to be 24" -- the contractor is later required to come back and cut off those longer than that, although the reason for shorter stumps in a right-of-way removal contract seemed missing entirely. An audit reveals that a too-small culvert has been installed, although the district manager has approved the section and authorized the contractor to remove his equipment -- the contractor is required to bring his equipment back.

From the standpoint of the government people, this conduct is anything but frivolous or captious.
most of the time. The auditor is merely doing his job -- as the book requires; the district manager, after having a couple of bad experiences like this gets real bookish with the contractors, not because he's a martinet, but because he is protecting himself.

Communications in such a climate break down utterly. The cure for the breakdown is not to get more communications, but rather to get a better climate for communications.

This means some basic reforms are going to have to be made.

For one thing, on the governmental matters, those which are really governmental and which involve substantive protection of larger interests than those of the particular contractor, the contractors must see things from the government's side, and show a greater willingness to cooperate in these circumstances.
Government, on the other hand, ought to rely more on supervision and less on legality, in reviewing the relationships between the contractor and the supervising officer.

The contractor, of course, must be sincere and reasonable in his demands. On the other hand the administrator must make certain that the terms of the contract are proper for the particular situation, if not, take the appropriate steps to correct the requirement.

If the district manager was derelict in passing a too-small culvert, he should suffer, not the contractor. If the contractor was in fact trying to pull a fast one, the penalty should be severe, but should be related to his attempt to shade the government, not to the technical provision of a contract which may bear little or no relation for
the practical need for a culvert of that size at that place.

I suggest that administrators of government land consider themselves more a part of the business community, and business men their neighbors. In a climate such as this, it becomes easier to recognize faulty situations and take corrective measures before a crisis materializes.

The Government, in carrying on proprietary functions, ought to adhere as best it can to the customs and practices which govern that proprietary relationship -- with adjustments for the necessity that government policies and practices must be uniform.

This can be accomplished -- for example, we run the Alaska Railroad like a railroad as best we can, not like a governmental bureau. But accommodations on both sides have to be made.
It is the climate that has to be improved. I hope it improves the climate for me to state as firmly as I have that the government, too, must look toward making some reforms.