

Safety & Damage Prevention

...Putting it all together

Stakeholder Advocacy



Case Study In Damage Prevention Advocacy: Washington

The following is a case study developed by the Common Ground Alliance (CGA) Stakeholder Advocacy Committee on the effort to rewrite Washington's Call Before You Dig Law, which passed the legislature in 2011 and went into effect on Jan. 1, 2013. The case study is based on a conversation with several individuals who helped write and pass the new legislation, including: Dave Christensen (City of Renton), John Cornelius (Washington State Department of Transportation), Don Evans (Washington 811), Dave Lichen (Washington State Transportation Commission), Jody Moorehouse (Avista Utilities) and Mark Scoccolo (SCI Infrastructure). It's intended to serve as a resource for individuals and organizations conducting or planning to undertake advocacy activity related to state one call and damage prevention legislation.

ORIGIN: What was the basis for advocacy?

In the years following the disastrous 1999 pipeline incident in Bellingham, Wash., which took the lives of three youths, there were several attempts by various damage prevention stakeholders to amend the state's call before you dig legislation that dissolved due to mistrust among stakeholders. The ultimately successful effort got underway following the reauthorization of the PIPES Act, as PHMSA provided information on its "Nine Elements." The Washington State Utility Transmission Commission (UTC) convened stakeholders who had been involved in early law change attempts to form what became the coalition pushing for a stronger dig law. The UTC showed the group an analysis of "hits per thousand feet" to distribution pipelines that showed Washington ranking third from last among all 50 U.S. states. Knowing that Washington's current call before you dig law did not meet each of the "Nine Elements," the UTC rallied damage prevention stakeholders, determined to successfully strengthen the legislation.

LEGISLATIVE STRATEGY: How did you identify and entice lawmakers to champion the legislative proposal? What materials did you use to advocate?

The coalition began meeting in 2009 to draft new consensus-based legislation that would be easily defensible to the legislature. In order to present a united front, the coalition decided early on about what key elements everyone could agree needed to be added to the statute, and acknowledged that there were some areas that this law change would not be able to tackle due to disagreements among stakeholders.

Several coalition members had government relations experience or were part of organizations that employed lobbyists, enabling the group to recruit bill sponsor Rep. Dean Takko, a member of the House Public Safety Committee. Legislators were extensively educated through calls, emails and in-person meetings. A fact sheet was used in legislative outreach. The public safety message of the bill helped it defeat some late-in-the-game efforts by large cities to gain exemptions that would have significantly weakened it, and ultimately helped the legislation pass.

Coalitions: Was this an effort of an industry and/or government coalition? How was it formed and who were the stakeholders? Were there conflicting goals/positions among coalition members?

The coalition was convened and facilitated by the UTC, and included stakeholders from many industries and levels of government. Facility owners, excavators, cities and counties, sewer districts and public utility departments all participated. The Washington State Department of Transportation was at the table to support the effort, which sets Washington's coalition apart from most other states'. Anyone interested was welcome to join the coalition. One group that was recruited but did not actively participate was cable television stakeholders.

While there were several conflicting positions among group members, everyone's special interests were already known from previous law change efforts and there weren't many surprises. Because the coalition agreed early on which topics to address with this law change attempt and which they would not be able to agree on, the process, though long, was not overly contentious. The group ultimately found middle ground on the issues tackled in the legislation that they did not initially agree on.

Key Players: Who were the leaders of the coalition and how were they selected? Did coalition leaders have political relationships within the legislature?

The coalition had a voluntary chairman, Mark Scoccolo, representing excavators. A task team of coalition members was formed to draft proposed legislation on behalf of the group. A UTC staff person, Alan Lundeen, was also a critical facilitator for the coalition. He kept meeting notes, created a matrix detailing the current law and the proposed areas of change and made sure that discussions didn't veer too far off course or become unproductive. Coalition Chairman Mark Scoccolo did have experience with the Washington State Legislature through his work with NUCA, as did several other members of the coalition's core group.

Process/Ground Rules: What ground rules were necessary to keep the coalition together? How did the group identify key components of the legislation? Was existing legislation used as a template?

The coalition convened approximately once a month over two years, with the majority of meetings taking place at UTC facilities with the assistance of its staff. The Common Ground model of inviting all stakeholders to the table was instrumental in creating legislation that everyone could live with.

Oregon's legislation, which had been amended within the last decade, was used as a reference, especially since coalition members Avista Utilities and the Northwest Gas Association had experience with the Oregon law. However, there are several differences between the two laws, including the enforcement mechanism created in each state.

After several of the initial meetings in which the group decided on the key elements the law the rewrite would focus on, a task team was formed to handle drafting proposed legislation. The task team then presented the proposal to the larger group for discussion and amendment, frequently referring to the legislative matrix created by the UTC to keep the coalition focused on its ultimate goals.

CGA Best Practices and "Nine Elements": Were the Best Practices a central tool of the effort? Were the Nine Elements of the PIPES Act considered?

The CGA Best Practices were referenced often as the coalition worked to put specific provisions into a draft law, and helped clear up points of contention among stakeholders. The Nine Elements were an important part of why the successful legislative effort was initiated, and were a focus of the new law.

Role of lobbyists: Did professional lobbyists participate in the effort, and if so, who did they represent? Did lobbyists help or hurt the effort?

Yes, several lobbyists participated in the effort, although the coalition itself did not formally employ a lobbyist. The coalition's chairman brought legislative experience to the table, and several professional lobbyists working on behalf of coalition members such as pipeline operators and associations also contributed their expertise and contacts to the campaign. Lobbyists were helpful in passing the law by setting up educational meetings with legislators (including the bill's sponsor), managing the legislative process through committee hearings, etc. and assisting in ironing out challenges from big municipalities that popped up after the bill had been introduced.

Legislative Process: Did your legislative strategy prepare you adequately once the bill started moving?

For the most part, the group's legislative strategy did prepare it well after the legislation was introduced. The consensus achieved through the coalition's process paid off during bill testimony, as all the stakeholders delivered consistent messages making the case for strengthening the call before you dig law. As with any piece of legislation, it did not escape amendment while it was in front of the Legislature, nor was it unopposed, but it did pass successfully because of the dedication and inclusiveness of the coalition supporting it.

Challenges: Where were the roadblocks encountered during the legislative process? How were they addressed and ultimately overcome?

Yes, there were a few challenges that came up during the legislative process. At one point while the bill was in committee, legislators thought its implementation would cost the state money and nearly killed the effort in a meeting that had been moved to 20 minutes earlier than previously scheduled. Because a lobbyist associated with the Call Before You Dig law was in the meeting, he was able to notify a coalition member who made it to the early meeting and explained one call system funding, which kept the law moving forward.

In addition, several stakeholders who had chosen not to participate in the coalition's process or who had previously been unopposed changed course once the bill was introduced. Some of the state's biggest cities wanted to be exempted from the legislation, but the coalition was able to persuade lawmakers otherwise by emphasizing that the law was in the interest of public safety. Eventually the cities had to come around or risk appearing anti-safety. A telephone association group also had their lobbyist attempt to have them exempted from the law, which failed.

Once the bill went before the legislature, there were amendments made to the law that were disagreeable to some coalition members as a result of industry and city lobbying as well as legislator input. However, the group was satisfied to have strengthened the Washington state law and created an enforcement body, the Washington Dig Law Safety Committee.

**State Executive Branch: Was the Governor's office involved in the process?
How were state agency representatives to work with?**

The Governor was not heavily involved. When the coalition was not able to determine a way to have the dig law enforced by a state agency, it did approach the Governor about appointing a commission that would have enforcement capabilities, but was denied due to financial concerns.

State agency representatives, including those from the UTC and the Washington State Department of Transportation, were instrumental in bringing stakeholders to the table and facilitating the consensus process.

Lessons Learned: Name a key success and something you would never do again from this experience.

A key success was having a state agency, UTC, take the lead in convening the coalition. Being able to meet regularly in their facilities with a dedicated staff person who didn't interfere except to ask smart questions was critical to the coalition's success in passing the new call before you dig law.

A key challenge was contending with the big cities' objections to the law after it had already been introduced. It would have been easier if they were engaged earlier in the process, because education could have helped solve some issues.