

Expert Environmental Consulting Advice: When to Take It and When to Forsake It

By Stephen E. Fauer

I once heard it said, "If you're not going to follow the advice of your consultant/attorney/accountant/psychologist/etc., fire them and hire someone whose advice you will follow." I embrace this advice and it has guided me for many years. And that begs the question: how does one know when you're getting good advice? I can't speak with any degree of expertise regarding legal, psychological, or accounting advice, but I do know a thing or two about what constitutes good environmental consulting advice.

I will distill this down to three guiding rules. While none of these rules are empirical, they are worthy axioms that will help you wend your way through the consulting and environmental compliance process.

Rule No. 1: Not everything an environmental consultant tells you is cast in stone.

It is important to discern the rigidity of things your consultant tells you. It comes down to this: that which you are being told, is it a fact or an opinion? I am always careful to discriminate between facts versus opinions. Remember, opinions are like bellybuttons, everyone has one. So if this distinction is unclear, you have the right to ask your consultant, "Is what you just told me an incontrovertible fact? If so, what makes it so; where is it written?" By the same token when given an opinion, ask upon what basis or experience that opinion is derived. Based upon the answer you can then make a business decision regarding the importance and/or risk of following that advice.

Rule No. 2: Has your consultant ever said, "We can't do it by that date"? There almost isn't a deadline that can't be met if your consultant is willing to burn some midnight oil. The real question begs: is the client willing to pay for some midnight oil?

ESA believes in honoring client requests with immediacy and scheduling realities means that we cannot do this every day. In addition ESA is very sensitive to price issues because we know full-well that every dollar our clients spend is extracted from their bottom line. Accordingly, we don't like to do things or create situations that impose unnecessary price burdens. On occasion a client will make a request of ESA that is labor intensive

and/or is contingent upon scheduling realities that cannot be fulfilled during a normal work week. In the vast majority of cases, the work request will be placed in a queue and attended in order. If your request is urgent, however, consider offering to pay for some overtime effort. Right or wrong; good or bad, a few extra dollars expended for overtime service will produce the desired result in short order and ultimately get "it" done by the desired deadline. The moral is this: there is almost always some water in the well, but at times it comes at a price.

Rule No. 3: Do "it" now because doing "it" in the future is going to be more expensive.

Having been exclusively in the environmental industry since 1977, I can state with authority that this rule is valid, but not 100 percent firm. Here is a glaring example. In the late 1980's the price to dispose of soil impacted with petroleum hydrocarbons was going for upwards of \$100 per ton, with a stringent cleanup level of 100 ppm! Today that cleanup level is 5,100 ppm and the disposal price is closer to \$50 - \$60 per ton. It is staggering to think of the millions of dollars in remedial costs that were expended for "regulatory imperatives," yet in today's regulatory environment would never garner a regulator's attention! Notwithstanding this dramatic example, in the vast majority of cases it IS less expensive to do things now versus waiting. This is because prices do tend to rise over time. So how can you be sure? The short answer is that you cannot be 100 percent certain. However you can ask your consultant to express to you why they believe that urgency is in your best interest. Their answer will be an opinion and it is important that they articulate their answer in a clear, understandable, and meaningful fashion.

Remember, your environmental consultant works for you. And when you sign your consultant's proposals and change orders it is YOU who makes the ultimate business decisions regarding your project. Will you follow your environmental consultant's advice, or is it time to change consultants?