

# Hidden Agendas: How Dubious Motives Can Lurk Behind Environmental Issues—and Complicate Public Dialogue

Professionals in the field of community relations/public involvement need to identify both the stakeholders who may wish to “weigh in” on environmental issues and those stakeholders’ needs, wants, and opinions. Whether the issue involves a permitting action, the investigation or cleanup of a hazardous waste site, or ongoing operations at a manufacturing facility, if there is public concern or opposition, the source will most often be:

- lack of knowledge or public misunderstanding regarding the permit, project, or facility, or
- differences of opinion—for example, disagreements about whether environmental and health regulations are sufficiently protective of human health and the environment.

***Stakeholders who use the environment to advance nonenvironmental interests can distract from legitimate concerns and distort public perceptions***

Fair enough. Dialogue and consensus-building techniques are the community relations/public involvement practitioner’s stock-in-trade, and both can be used to address such situations.

But what happens when a stakeholder’s motive for voicing concern or opposition has little or nothing to do with the environment? What if the stakeholder actually has a “hidden agenda”? This article discusses how the problem of hidden agendas can complicate public dialogues about environmental issues.<sup>1</sup>

## **Hidden Agendas and Environmental Issues: Lessons Learned**

Early in my career, I encountered a situation in which concerns about an alleged cancer

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cluster at a public school erupted into a major media event. The upshot: the school district spent several hundred thousand dollars collecting and analyzing samples of dust, ambient air, water from drinking fountains, and soil from the school's playing fields to reassure panicky parents that the school wasn't harboring carcinogens.

This case involved basic, straightforward communication about how the investigation was conducted and what the analytical results meant, and we were successful in allaying public concern by providing good information. But far more intriguing, from my point of view, was the back-story that the public never heard.

It turned out that the cancer-cluster claims arose from a dispute between the teachers' union and the school district's administration. But for this dispute, the claims would never have been made. In other words, the "environmental" concerns were driven by a decidedly nonenvironmental issue.

**A nonenvironmental motive had insinuated itself into what appeared to be an environmental issue, creating significant consternation among the facility's neighbors along the way.**

Soon after the school incident, I encountered a case in which a business competitor had spread misinformation about a hazardous waste treatment facility in an attempt to block the granting of the facility's Resource Conservation and Recovery Act (RCRA) operating permit. As with the school cancer-cluster claims, a nonenvironmental motive had insinuated itself into what appeared to be an environmental issue, creating significant consternation among the facility's neighbors along the way.

I later encountered yet another case—this one spectacularly over the top. A community group alleged that emissions from a recycling facility had caused cancer and other ailments among nearby neighbors. After significant media coverage and

a standing-room-only public meeting convened by outraged public officials, the facility agreed to leave the neighborhood. I wasn't personally involved in this case, but I had followed it in the media because the neighborhood in which it unfolded was near another neighborhood where I was working. Although I had been skeptical of some of the community group's claims, I (along with apparently most everyone else) had assumed that the group's spokespersons were actually *from* the neighborhood.

A couple of years later, after the recycling facility had surrendered its property to a nearby medical center that was undergoing an expansion, I made the acquaintance of several employees of a public affairs firm. During one of our conversations, the employees let me in on a big secret: The medical center, which had wanted the recycling facility's property for its expansion, had hired the public affairs firm to make it happen. The public affairs firm had set up the supposedly "grass-roots" community group, scripted the protests and public meeting, and paid the participants to pressure the recycler to sell out and leave. Once again, a nonenvironmental motive—this time the acquisition of property—had been cloaked in environmental terms. I asked the employees of the public affairs firm if they didn't consider such actions unethical. After all, communicating about environmental risk is already difficult enough without stirring the pot with frightening misinformation. The employees seemed surprised that I would ask.

I should point out here that the Public Relations Society of America condemns the use of activities designed to mislead the public; the society's policy is discussed later in this article. Nonetheless, there are persons and organizations (in public relations and other fields) that are quite willing to throw ethics to the wind, no matter how much damage may be done to the public's understanding of environmental risk. In

fact, the three cases I've just outlined are far from uncommon.

### ***Expanding the Community Relations Model***

As I continued to hone my skills in environmental community relations/public involvement, I began to recognize that our assumptions need to change. Our traditional model recognizes only the two sources of public opposition listed at the beginning of this article (lack of information/misinformation and differences of opinion). I came to realize that we need to expand the model to reflect a third source of opposition: nonenvironmental agendas (see **Exhibit 1**).

I also realized that most environmental professionals are relatively unaware of the phenomenon of hidden agendas. As a result, they don't look for them. I hope that this article, which describes several well-documented cases, will help environmental consultants, managers, and attorneys identify hidden agendas so that, when possible, actions can be taken to minimize the damage they do to public discussions about environmental risk.

It is not only members of the public who may find it difficult to identify hidden agendas. They

can also catch business owners and operators of government facilities by surprise. The organizations that pursue hidden agendas often possess considerable expertise in devising messages and strategies that resonate with the public—or they hire unscrupulous professionals who possess such skills.

The two most common methods used by organizations that wish to further covert agendas include:

- Alliances with environmental advocacy or community groups that are specifically designed to cloak or downplay a business interest's competitive goals.
- The creation of "front groups" to advance a business interest's messages while masking its identity and motives.

Both methods are discussed in the sections that follow.

### ***A Continuum of Legitimacy***

Before I discuss these methods, I want to make clear that genuine public outreach by business and government entities can be a good

### **Exhibit 1. Three Categories of Opposition or Expressed Concern**

<b>Lack of Knowledge or Misunderstanding Regarding Information</b>	<b>Differences of Opinion Regarding What Information Means</b>	<b>Other Motivations (Hidden or Not-So-Hidden Agendas)</b>
<p>Examples:</p> <ul style="list-style-type: none"> <li>• Community residents are unfamiliar with the terminology used in a permit or site investigation report.</li> <li>• Community residents have concerns about emissions figures based on their lack of understanding of how much a specific facility is contributing relative to emissions from other sources.</li> </ul>	<p>Examples:</p> <ul style="list-style-type: none"> <li>• Community residents or environmental advocacy groups understand the terminology and information (such as emissions figures), but they don't believe that government regulations are sufficiently protective of human health and the environment.</li> <li>• Residents understand the relevant information but believe that a proposed facility "belongs in a better location"—meaning not near their homes.</li> </ul>	<p>Examples:</p> <ul style="list-style-type: none"> <li>• A labor union opposes the granting of a construction permit to a business in an effort to pressure the business to use union labor.</li> <li>• A business competitor seeks to limit competition by blocking the issuance of a competing company's environmental permits.</li> <li>• A plaintiffs' attorney wants to further a lawsuit by suggesting harm or potential harm to the public.</li> </ul>

thing. Organizations that are responsible for operating manufacturing facilities, remediating contaminated sites, and the like frequently engage in outreach and public involvement activities that involve sharing information with, and soliciting feedback from, community, environmental, and other advocacy groups as well as the general public.

Such dialogue is valuable and highly worthwhile. When outreach efforts are conducted in good faith, and with a goal of minimizing negative effects on people and the environment, they are light years away from the deceptive practices I discuss in this article.

**Some alliances can be difficult to place along the “positive-negative” continuum, and must be judged on their own merits with regard to whether they harm the marketplace, the environment, or public understanding about environmental risk.**

Moreover, while front groups are always suspect, alliances between business interests and advocacy groups can often be legitimate. Front groups are set up specifically to mislead the public by obscuring the identities of their backers and spreading misinformation. Alli-

ances, however, fall along a continuum. At one end of the continuum are alliances whose parties engage in positive, above-board efforts to improve environmental quality. Further along the spectrum are relatively neutral alliances that may, for example, advocate legislation or regulations that will help the business partners of the alliance, but that are relatively transparent to discerning observers. At the far end of the continuum are covert and noxiously deceitful arrangements undertaken to mislead the public (as well as legislators and regulators) in order to fraudulently obtain undue competitive advantage. These latter alliances are invariably damaging to public understanding of environmental risk and, potentially, to environmental quality as well.

Some alliances can be difficult to place along the “positive-negative” continuum, and must be judged on their own merits with regard to whether they harm the marketplace, the environment, or public understanding about environmental risk. These alliances are often intended to cloak an organization in an aura of “green credentials” that it couldn’t claim on its own, but sometimes they actually *do* represent shifts on the part of the organization to improve its environmental performance.

In short, the potential for an alliance to have a negative impact on the public’s understanding of environmental issues—or on the environment itself—is directly tied to the true intentions of the business interest (or labor union or government entity) involved and (if these intentions are less than noble) to the organization’s willingness to mislead the public.

Most examples of hidden agendas in environmental issues go undocumented, but a few cases end up in the press or in litigation, creating public records. I have included examples of several well-documented cases to help readers better understand the hidden agenda phenomenon.

### **“Bootleggers and Baptists”: Strange Alliances in Public Involvement**

Economist Bruce Yandle has drawn attention to the practice of dissimilar organizations banding together to achieve a common goal, even though the motives of the parties are markedly different. He introduced the concept in his landmark article, “Bootleggers and Baptists—The Education of a Regulatory Economist,” published in 1983.<sup>2</sup>

In a later article, Yandle described the phenomenon as follows: “The theory’s name draws on colorful tales of states’ efforts to regulate alcoholic beverages by banning Sunday sales at legal outlets. Baptists fervently endorsed such actions on moral grounds. Bootleggers tolerated the ac-

tions gleefully because their effect was to limit competition.”<sup>3</sup>

Explaining the effectiveness of such partnerships in promoting regulatory action, Yandle comments:

“Baptists” point to the moral high ground and give vital and vocal endorsement of laudable public benefits promised by a desired regulation. Baptists flourish when their moral message forms a visible foundation for political action. “Bootleggers” are much less visible but no less vital. Bootleggers, who expect to profit from the very regulatory restrictions desired by Baptists, grease the political machinery with some of their expected proceeds. They are simply in it for the money.<sup>4</sup>

“Bootleggers” may in fact be eager to join “Baptists” in support of regulatory action because doing so allows them to cloak themselves in virtue without disclosing their ulterior motive.

At the national level, scrutiny of the diverse groups that support or oppose major legislation often reveals a breathtaking array of motives, some of which are diametrically opposed, even if the groups that hold them are all supporting the same bill. Politicians understand this, of course. And although they may decry the agendas of certain groups in public, they rarely walk away from an opportunity to achieve desired political goals, no matter whom they have to partner with.

### ***Understanding Mixed-Motive Coalitions***

Persons with little experience on the policy end of environmental law and regulation often scratch their heads at the idea of corporations partnering with environmental advocacy groups. But we need to remember that regulation creates both threats and opportunities for business. For example, regulations requiring permits benefit

businesses that already possess them. Moreover, if the number of permits granted is limited or the permitting process is onerous, such requirements may represent barriers to would-be competitors. As Yandle explains, “often people want relief not from regulation but through the protections regulation can provide.”<sup>5</sup>

In “Economic Observations on Citizen-Suit Provisions of Environmental Legislation,” A. H. Barnett and Timothy D. Terrell write, “Examples of industry-environmentalist cooperation are numerous. Blakeman Early of the Sierra Club stated forthrightly that ‘[t]he commercial waste industry has an interest in improving regulations sufficiently to drive mom-and-pop operations out of business.’”<sup>6</sup>

Barnett and Terrell quote from *Environmentalism at the Crossroads: Green Activism in America* by Jonathan H. Adler, which provides an interesting example:

Adler notes that WMX (now Waste Management, Inc.), the largest waste management company in the United States, “has funded the National Audubon Society, National Wildlife Federation, Natural Resources Defense Council, Wilderness Society, and World Resources Institute, typically giving over \$700,000 annually to environmental causes.” A former director of environmental affairs for WMX, William Y. Brown, . . . acknowledged, “[w]e’re in a position to benefit from the same objectives that [environmental groups] are pursuing . . . . Stricter legislation is environmentally good and it also helps our business” (footnotes omitted).<sup>7</sup>

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### ***Reactions to Mixed-Motive Coalitions at the Community Level***

At the community level, when people hear that an industry group or corporation has sided with an environmental advocacy organization to push for regulation that would increase environmental controls, they may be confused. Public reaction to news of such alliances can run the gamut.

Sometimes the alliance can improve the image of the industry group or corporation—because members of the public believe the business is behaving altruistically and has finally “got religion” regarding environmental protection. But such alliances can also tarnish the image of the environmental advocacy group involved—because people may believe that the environmental-

ists have “sold out” to business interests.

I’ve also encountered interesting reactions in cases where a business entity has allied with an environmental organization to block the permitting of another facility:

Sometimes members of the public assume that the target facility must be “really bad” if other businesses are opposing it. Rarely do members of the general public consider (at least without prompting) the notion that a “bootlegger” has partnered with “Baptists” to gain a competitive advantage.

### ***Mixed-Motive Coalitions in Action***

The following sections describe some high-profile examples of mixed-motive coalitions. The first deals with the push to regulate used oil as a hazardous waste in the 1990s. The second describes a case in which an industry coalition called the Association for Responsible Thermal

Treatment recruited a well-known nonprofit organization to speak out on its behalf.

### **The Push to Regulate Used Oil as a Hazardous Waste**

A fairly transparent “bootlegger and Baptist” scenario from the early 1990s involved the Natural Resources Defense Council (NRDC), an environmental advocacy group, and the Hazardous Waste Treatment Council (HWTC), a trade organization for hazardous waste treatment companies, who worked together to push for the listing and regulation of used oil as a hazardous waste. At the time, millions of gallons of used oil—sometimes contaminated with lead, arsenic, and cadmium—were being released into the environment. Moreover, some of the practices used to “reclaim” used oil earlier in the twentieth century had also exacted significant environmental costs: Approximately 50 reclamation facilities (most of which had used old, out-of-date technologies) were included on the U.S. Environmental Protection Agency (US EPA) Superfund list.

The NRDC’s interest in regulating used oil was clear enough. But why was the HWTC pushing to regulate used oil as a hazardous waste? Many used-oil recyclers, who modified used oil so that it could be sold as industrial boiler fuel, were against listing the substance as a hazardous waste.<sup>8</sup> In an April 1991 article published in *BusinessWeek*, a quote from Christopher Harris, general counsel of the National Oil Recyclers Association, suggested a motivation. He commented, “The reason there’s a great push by the Hazardous Waste Treatment Council is that Safety-Kleen wants to push further into the used-oil area.”<sup>9</sup>

Safety-Kleen possessed RCRA permits that allowed the company to manage hazardous wastes throughout its network of nearly 200 facilities in the United States. The company also owned two used-oil re-refineries outfitted with state-of-the-

art technology and emissions and spill controls. With its RCRA permits already in place,<sup>10</sup> the company was in a position to enjoy a significant competitive advantage over businesses that would have to obtain new RCRA permits (or modify existing ones) if used oil was listed as a hazardous waste.

In the *BusinessWeek* article, a representative for Safety-Kleen insisted that the company's motivations were environmental: "It's not a competitive issue, it's a proper-management-standards issue," says Scott E. Fore, vice president for environment, health, and safety at Safety-Kleen. . . . Fore says there will be business for all as the public's concern for the environment boosts demand for recycled oil."<sup>11</sup>

So was Safety-Kleen interested in protecting the environment or strengthening its competitive position? The answer is probably a little of both. At the time, Safety-Kleen was working to ensure that its environmental performance complied with the state and federal regulations under which it operated. Given the number of RCRA permits the company had to maintain, and the increasing prevalence of customer audits of vendor waste facilities in the early 1990s, the company was investing significant resources and senior management attention to ensuring good environmental performance. Problems at RCRA-permitted facilities in the company's network could have jeopardized its ability to obtain permits in other parts of the country, just as poor performance could have jeopardized its ability to hold on to customers concerned about their own liability.<sup>12</sup>

Ultimately, US EPA struck a compromise in its final rule for the management of used oil (codified at 40 CFR Part 279). The rule did not automatically classify used oil collected for recycling as a hazardous waste. But it did impose management requirements that were environmentally protective, while stopping short of including all

of the requirements governing the management of RCRA hazardous wastes.

### **ARTT and the American Lung Association**

As far as the public is concerned, the "Baptists" side of the bootleggers-and-Baptists duo typically is viewed as attempting to pursue a public good, such as environmental protection. In the words of Bruce Yandle, "The Baptists bring something to the anticompetitive effort that cannot be delivered by bootleggers. They add public interest content to what otherwise would be a strictly private venture."<sup>13</sup> But what happens when financial motives override the organization's assumed altruistic aims?

One of the more notorious "mixed-motive" collaborations involved the Association for Responsible Thermal Treatment (ARTT), a now-defunct trade association composed of six commercial hazardous waste incinerator companies, and the American Lung Association (ALA).

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### **Hazardous Waste Burning**

The commercial hazardous waste incinerator industry was established after the adoption of RCRA in the 1970s to thermally treat wastes that could not (in their untreated form) be disposed of in landfills. The companies that owned and operated commercial hazardous waste incinerators expended considerable resources to build their facilities and obtain the required RCRA operating permits.

But hazardous wastes did not have to be sent to commercial hazardous waste incinerator facilities. They could also be utilized as fuel in cement kilns. By the early 1990s, cement kilns (which require large amounts of fuel to make cement) had

in fact captured the lion's share of the hazardous waste thermal treatment market—primarily because they charged only about a third of what commercial incinerators charged to incinerate wastes.<sup>14</sup> Thus, of “the 1.6 million tons of hazardous waste that was burned off-site in 1993, 70 percent [of these wastes were] handled by fuel blenders in combination with cement kilns.”<sup>15</sup>

A 1994 article in *WasteAge* cited a pertinent study by Joan Berkowitz of Farkas Berkowitz, a management consulting firm in Washington, D.C. Berkowitz estimated that although commercial hazardous waste incinerators had the collective capacity to burn 800,000 tons of haz-

ardous waste material, they were actually burning only about 480,000 tons, placing commercial incineration firms in financial jeopardy.<sup>16</sup>

It should be noted here that the burning of hazardous wastes as

fuel in properly permitted facilities was considered to be a form of waste minimization, since burning recovers the energy content of the waste. By contrast, thermal treatment in incinerators provides no recycling benefit and simply reduces the wastes to ash that must be disposed of.

### ***Industry Maneuvering***

Not surprisingly, the commercial hazardous waste incineration industry wanted to limit the cement kilns' incursions into the hazardous waste market. So in December 1993, six incineration firms formed ARTT to press for stronger regulation of cement kilns that burned hazardous waste-derived fuel (HWDF).<sup>17</sup> ARTT claimed that burning hazardous wastes in cement kilns posed a threat to human health and asserted that cement kilns were not regulated under the

same stringent standards required of commercial incinerators.

The Cement Kiln Recycling Coalition (CKRC), whose members included fuel blenders and cement kilns that burned or wanted to burn HWDF, responded by requesting that US EPA impose tighter standards on both cement kilns and incinerators. In its petition, the CKRC also asked the Agency to restrict the percentage of metals in HWDF and set minimum BTU standards to ensure that the wastes being burned qualified as legitimate fuels.<sup>18</sup> The CKRC hoped that such standards would reassure the public that the burning of HWDF did not pose a risk to human health or the environment, either from kiln emissions or from the cement produced by kilns burning HWDFs.

### ***The BIF Rule***

In reality, ARTT's claims about less-stringent regulation of cement kilns were unfounded. The assertions would have been accurate until mid-1991. But that changed when the Boilers and Industrial Furnaces (BIF) Rule (40 CFR Part 266, Subpart H) went into effect in August 1991.

The BIF Rule governed cement kilns (along with other industrial furnaces). And once the rule became effective, it imposed regulations that were, in fact, more stringent and comprehensive than those governing hazardous waste incinerators (codified at 40 CFR, Subpart O, Sections 264.340 through 264.351). Under the BIF Rule, cement kilns had to “meet total hydrocarbon emissions limits, specific emissions standards for 12 metals that might have adverse environmental consequences, and specific dioxin mandates. None of these requirements” applied to commercial hazardous waste incinerators.<sup>19</sup>

### ***ARTT Recruits ALA***

ARTT also sought to create public pressure aimed at discouraging the burning of HWDF.

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To do so, ARTT embarked upon an ambitious strategy to bring public condemnation down on cement kilns' use of HWDF, while leaving the commercial incineration industry unscathed.

One of ARTT's actions involved paying the American Lung Association and several of its state affiliates \$150,000 to speak out against cement kilns' use of HWDF<sup>20</sup> while at the same time proclaiming that emissions from hazardous waste incinerators were safe. The ensuing controversy damaged the reputation of the ALA and created one of the most widely documented examples of a hidden agenda in action in the environmental arena.

In his article "Selling Its Reputation: The American Lung Association," published in *Alternatives in Philanthropy*, Dr. James T. Bennett noted:

The way in which the ALA aired its accusations is questionable. Although cement kilns exist in 43 states and hazardous wastes are burned by kilns in 14 states, the ALA has made allegations in only four states rather than voicing its concerns nationwide. And it has not petitioned the EPA, which licenses cement kilns and regulates their incineration of hazardous wastes.

In fact, in December 1993 the EPA issued a multi-volume *Report to Congress on Cement Kiln Dust*. It concluded that neither the kilns nor the cement products they produce pose any significant hazard to humans or the environment. ARTT was apparently formed to circumvent the EPA, and the ALA was apparently hired to raise concern in *local* communities where knowledge of cement kiln operations would be minimal.<sup>21</sup>

Bennett's description of the tactics used against the fuel blender Systech Corporation and

Lafarge Corporation's cement kiln in Alpena, Michigan, makes disturbing reading for anyone concerned about responsible environmental communication:

Alex Sagady, ALA-Michigan's director of environmental and occupational health, filed a Freedom of Information Act request with the superintendent of Alpena public schools asking for "Copies of any informative letter, newsletter, permission slip or liability waiver forms sent home to parents of Alpena Public School Students that addresses [sic] the matter of tours by Alpena students of the Lafarge Corporation and/or Systech Corporation facilities." The request also asked for any information indicating that Alpena schools had "site related health and/or safety hazards," such as "hazards for cement production, hazardous waste management activities and demolition [including] explosions, physical hazards, fires, emissions of asbestos, lead and silica compounds, airborne toxicant exposure . . . , heavy dust and fine particle exposure from multiple sources including kiln upset conditions and fugitive kiln dust emissions, noise and other potential hazards." Sagady also requested "the name, address, and telephone number of the liability insurance carrier . . . for Alpena Public Schools," as well as the names and addresses of all school board members.

The superintendent gave Sagady the information, noting that plant tours were just

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another educational experience for students. He also asked a pointed question: "Mr. Sagady, if an official determination has been made that Lafarge/Systech is a definite official health hazard, why hasn't the general public and the school district been informed?" Sagady responded, "Please be advised that this matter will be addressed in a subsequent communication to the Alpena Public Schools Board of Education; you will receive a copy of this letter. [It] will address the appropriateness of school children visiting an industrial site where cement production, hazard-

ous waste management, asbestos related demolition activities and disposal of lead contaminated cement kiln dust take place."<sup>22</sup>

**This ARTT/ALA case was especially alarming because the public generally assumes that charitable organizations such as the ALA would not be willing to advocate for pay.**

The promised letter never arrived, although the school district temporarily suspended student tours of the cement plant. Sagady visited the school board to make additional allegations—for example, that no government agency monitored the cement kiln's emissions. Representatives of Lafarge, the Mining Health and Safety Administration, and the Michigan Department of Natural Resources successfully countered ALA-Michigan's claims, and the school board ultimately voted to resume tours of the cement plant.<sup>23</sup>

This ARTT/ALA case was especially alarming because the public generally assumes that charitable organizations such as the ALA would not be willing to advocate for pay. Hence, the power of the ALA's pronouncements.

Moreover, in addition to accepting money from ARTT, an ALA official reportedly told members of the CKRC "that the charity would be happy

to take money from the kiln industry, too, provided the grants came with no strings attached,"<sup>24</sup> according to an article in *Slate* magazine. The CKRC responded by filing "a complaint with the Internal Revenue Service, charging that the ALA was being paid to lobby on behalf of a commercial interest, a violation of its nonprofit tax status."<sup>25</sup>

### **Labor Unions and Environmental Issues**

Over the years, organized labor has contributed to the promulgation of strong environmental, health, and safety regulations. Individual bargaining units have often worked closely with facility managers to implement superior environmental, health, and safety programs in their workplaces. But unions also have a history of exploiting environmental issues to press for what they want on other fronts.

In some cases, unions have teamed with environmental advocacy groups. In other cases, they have raised environmental concerns on their own. Barnett and Terrell note, for instance, that unions have intervened in the construction permitting process in an effort "to impose costs on non-union contractors."<sup>26</sup>

The authors go on to quote an earlier article by Herbert R. Northrup and Augustus T. White, who state that unions seek to intervene:

by claiming that the user's application does not protect sufficiently the air or water quality, that drainage or waste disposal plans are insufficient, or that the construction plan violates other environmental regulations. The union posture may be supported by environmental groups and by "consumer groups" that spring up and likely are controlled or funded by unions. . . . Often . . . the union action seems more designed to inflict costs on the users than to protect the environment (footnote omitted).<sup>27</sup>

## ***CURE Challenges the Renewable Energy Industry***

In recent years, California's emerging renewable energy industry has been the target of union activity, often in collaboration with environmental advocacy groups. A June 2009 article in the *New York Times* documented efforts by a California labor coalition to coerce developers of commercial solar power plants to use union labor—or face repeated requests for data on the environmental effects of their plants:

At proposed fossil-fuel power plants, the union group [California Unions for Reliable Energy, or CURE] has long been accused of exploiting environmental laws to force companies into signing labor agreements. . . .

. . . .

What is new is that California Unions for Reliable Energy, a coalition of construction unions, appears to be applying this approach to new-age renewable energy projects, especially solar power plants, which are being fast-tracked to help meet the state's green power target.<sup>28</sup>

According to the *New York Times* story, CURE claims that it is simply pushing for high environmental standards and sustainable practices at solar plants, stating "if energy projects are held to high environmental standards . . . more of them will ultimately get built, and that will mean more union jobs."<sup>29</sup>

However, developers of solar power plants point to the case of one facility that had already agreed to use union labor. At that facility, the union not only requested no environmental studies, "it urged regulators to approve the project as quickly as possible."<sup>30</sup> In another case where a

company with plans to build a solar power plant had rejected demands to use union workers, the company was bombarded with demands for studies on how the plant would affect various animal species in the area.<sup>31</sup>

The *New York Times* coverage precipitated dozens of follow-up stories on CURE's association with environmental advocacy groups, the concept of "greenmailing," whether the new "green" jobs should be well-paying union jobs or low-paid service jobs, and which faction the public should support: the power companies building "green" power plants and reducing emissions, or the unions, which might be imperiling the proliferation of such plants by making demands.

Writing for the Mother Nature Network, Melissa Hinch-Ownby reported, "There were 10,209 green businesses in [California] and 125,390 green jobs in 2007. The state is undoubtedly a hot bed for the new clean energy economy."<sup>32</sup> She noted, however, that "there may be trouble on the horizon for companies seeking to build new clean energy projects. The trouble comes in the form of labor unions."<sup>33</sup> Hinch-Ownby concludes:

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Clean energy projects are only going to increase in numbers and so it is likely that disagreements like [those outlined in the *New York Times* story] are only going to become more frequent. There are environmental advocates on both sides of the issue—those that support the move by the unions and those that fear it will hinder a more rapid expansion of clean energy. It will be interesting to see how this plays out in the months and years to come.<sup>34</sup>

CURE, which was founded in 1997, started out as an organization that commented on the permitting of coal-fired power plants in an effort to get plant owners to reduce emissions. These efforts won applause from environmentalists, even though the group might have been engaging in them to press for union jobs.

But as CURE set its sights on green energy, relations between environmental advocacy groups and the labor coalition have frayed a bit. Environmental advocacy groups are pushing for the rapid development of alternative energy power plants. Although these organizations have been reluctant to speak out against the union group, some are

concerned that CURE's attempts to press for commitments to use union labor may cause delays.<sup>35</sup>

Author Chris Morrison wrote on the BNET Energy Blog that CURE's actions are "part of a larger pic-

ture, the long-declining importance of organized labor in the United States."<sup>36</sup> Morrison adds:

Unions have not only lost much of their power with the waning of the auto and steel industries, they have taken a bad rap for helping to weaken once strong companies like Ford, General Motors, and U.S. Steel. Renewable energy may be more than a battleground; it may be seen as a last chance at relevance.

Before long, lawmakers and the general population will have to decide whether the efforts of unions to muscle in are tolerable. In many ways, it appears that the unions are on stronger ground than usual because of the nature of renewable

energy projects. Because giant solar and wind plants are built on Federal land, sometimes using public funds, the opportunity for stalling techniques is magnified. It's not a small threat, either; bureaucratic challenges helped bring the nuclear industry down in the 1970s.<sup>37</sup>

### ***Attempts to Curb Labor Unions' Use of CEQA***

Even before the latest skirmishes, the state of California was no stranger to organized labor's use of environmental regulatory processes to bring pressure to bear on both public- and private-sector projects. In 2005, the business community was so vexed by labor's long-standing use of environmental regulations that the state's Senate Committee on Energy, Utilities and Communications considered a bill, SB 628, that would have curtailed organized labor's ability to participate in the California Environmental Quality Act (CEQA) process.

CURE's Web site includes a letter from executive directors of two of its supporters, the Planning and Conservation League and the California League of Conservation Voters, to the relevant senate committee chair, urging her to vote against the measure. The letter states, "It would be a very dangerous precedent to single out any particular type of group and allow its motives to be attacked. What matters to an agency should be the merits of the comments made, not the identity of the party making the comments."<sup>38</sup> The letter went on to discuss CURE's achievements:

In the case of the Three Mountains Power Plant, the CEC [California Energy Commission] included CURE's request for a better cooling process design that reduced the plant's groundwater consumption by 80 percent. At the High Desert Power Plant near Victorville, acknowledging the concerns of CURE, the CEC required that

**Even before the latest skirmishes, the state of California was no stranger to organized labor's use of environmental regulatory processes to bring pressure to bear on both public- and private-sector projects.**

the plant avoid the dangers of highly concentrated anhydrous ammonia by instead using the less hazardous aqueous ammonia.

The environmental benefits of these efforts by organized labor are indisputable. It is not a “misuse” of the CEQA process, as the bill asserts, for organized labor to participate in the Energy Commission process. Rather, it is public participation in the highest California tradition, and has resulted in important improvements in California’s quality of life and environment.<sup>39</sup>

### ***Unions and the Environmental Dialogue***

While bald attempts at “greenmailing” are undeniably bad, it can be argued that, as business interests themselves, unions, like other suppliers, are simply crossing swords with corporate competitors for a greater piece of the economic pie. Certainly, in cases where unions have substantive comments to make on environmental performance, their participation in the permitting process is legitimate. If CURE’s Web site ([www.sbctc.org](http://www.sbctc.org)) is taken at face value, the organization appears to be as interested in enhancing environmental quality as it is in procuring union jobs.

But does organized labor, leveraging environmental interests either by teaming with environmental advocacy groups or intervening on its own in the permitting process, confuse the dialogue about environmental protection and risk? Arriving at a good answer to this question would have to be done on a case-by-case basis, by looking at what the union is seeking to accomplish and the truthfulness of the environmental claims it makes.

### **Front Groups and the Environment**

The Center for Media and Democracy, a non-profit public interest organization that funds the

Web sites [prwatch.org](http://prwatch.org) and [sourcewatch.org](http://sourcewatch.org),<sup>40</sup> defines a front group as “an organization that purports to represent one agenda while in reality it serves some other party or interest whose sponsorship is hidden or rarely mentioned.”<sup>41</sup>

I should note here that some commentators sling the word “front group” at any organization they don’t like—even when the organization is completely above-board regarding who their members are and what they are doing. Oddly enough, I have even encountered local environmental groups that routinely use the pejorative “front group” when referring to other local environmental groups with which they don’t get along. In this article, however, I follow the definition offered by the Center for Media and Democracy.

Front groups may be national or even international, or they may be relatively local in scope. With the increasing presence of blogging and the public’s use of the Internet to seek out information on all manner of issues, front groups (or even individuals who are so inclined) can use the Internet to post erroneous or seriously biased information under false identities in order to sway public opinion.

The Federal Trade Commission has recently attempted to rein in some types of misleading Internet postings, notably the “Mommy bloggers” who endorse products but fail to disclose that they have been paid by the manufacturers for their endorsements. Unfortunately, front groups spreading misinformation about environmental issues are far more difficult to regulate.

### ***PRSA Position on Front Groups***

In an August 27, 2009, statement, the Public Relations Society of America (PRSA) spelled out

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its strong opposition to front groups. The statement, entitled “PRSA Condemns the Growing Use of Disingenuous Editorial Content, Deceptive Commentary on Blogs and Other Venues,” read in part:

One frequently used vehicle that fosters misrepresentation and unethical advocacy is a third-party organization, known as a “front group,” established specifically to deceive or mislead an audience about the position represented and its source. In Professional Standards Advisory PS-7, the PRSA Code of Ethics spells out the unethical nature of engaging in or assisting such groups’ deceptive descriptions

of goals, causes, tactics, sponsors, intentions or participants. The ethical communicator is obligated to reveal all information needed for informed decision

making, thereby maintaining the public trust. Withholding or deceptively concealing sources or sponsors of information or their intentions or motivations fails to satisfy the principles of truth in advancing the interest of clients and of serving the public interest as responsible advocates.<sup>42</sup>

### **ARTT and PEEP**

One of the better-documented environmental front groups was created by the Association for Responsible Thermal Treatment, which was discussed earlier in this article in connection with “mixed-motive” coalitions. This front group was promoted by ARTT in another effort to discourage cement kilns from burning hazardous waste-derived fuels.

The incident came to light in the mid-1990s, when the Keystone Cement Company’s cement plant in Bath, Pennsylvania, was seeking an RCRA permit under the BIF Rule to burn HWDF. The company was hit with a citizen suit by a group called the Pennsylvania Environmental Enforcement Project (PEEP),<sup>43</sup> which had incorporated only weeks before filing the lawsuit against Keystone. Tellingly, a representative of the group testified during subsequent legal action that “PEEP did not oppose all hazardous waste incineration, but only that which occurred in cement kilns.”<sup>44</sup>

Keystone doubted that PEEP was acting alone. The company’s attorney, Christopher Marraro, characterized the citizen suit brought by PEEP as part of “a strategy put forth by commercial hazardous waste incinerators, or at least a subgroup, to use citizens groups to bring lawsuits for the purpose of trying to achieve something they’ve failed to in administrative or legislative forums—to shut cement kilns out of the hazardous waste market.”<sup>45</sup>

Documents presented during litigation suggested that Rollins Environmental Services, a member of ARTT, had actually funded PEEP’s work. This was later confirmed by an admission from a spokesman for Rollins. It turned out that Rollins had in fact paid PEEP \$250,000 over an eight-month period.<sup>46</sup>

It appears that Rollins had crafted a plan to target cement kilns that did not depend on HWDF because, as noted in a company memorandum, “Kilns or companies with the smallest waste rates should be the most vulnerable . . . . For these kilns the cost of regulatory and compliance efforts would be a higher percentage of waste revenues.”<sup>47</sup>

PEEP disbanded after the lawsuit was settled. ARTT is believed to have used similar tactics involving citizens groups in both Texas and Michigan. Unlike PEEP, however, these groups were already in existence.<sup>48</sup>

**Documents presented during litigation suggested that Rollins Environmental Services, a member of ARTT, had actually funded PEEP’s work.**

### ***Co-opting Real Organizations as Unwitting Front Groups***

Issues can get even murkier when real organizations are “hijacked” and used as front groups. A case that garnered national attention last summer illustrates this troubling new twist on the front-group concept. In this instance, a lobbying firm allegedly wrote unauthorized letters that purported to come from people associated with real organizations. The letters reportedly were sent to at least three U.S. legislators in an attempt to influence their votes on climate-change legislation.<sup>49</sup>

The outline of the case was revealed in a story first published in late July 2009 in the *Charlottesville Daily Progress*.<sup>50</sup> The story stated that a congressman from Virginia had received letters purporting to come from two Charlottesville-area nonprofit organizations, *Creciendo Juntos* (a group that addresses issues of concern to the local Hispanic community) and the Albermarle-Charlottesville chapter of the NAACP. The letters stated that the organizations opposed the American Clean Energy and Security Act of 2009, which was then under consideration by the United States House of Representatives.

The *Charlottesville Daily Progress* article quoted Tim Freilich, a member of the *Creciendo Juntos* executive committee, as stating, “They stole our name. They stole our logo. They created a position title and made up the name of someone to fill it. They forged a letter and sent it to our congressman without our authorization. . . . It’s this type of activity that undermines Americans’ faith in democracy.”<sup>51</sup>

The article also revealed that Congressman Tom Perriello (D-Virginia) had received five letters purporting to come from members of the Albermarle-Charlottesville NAACP, all of which were signed by people who apparently were not actual members of the organization. The president of the Albermarle-Charlottesville NAACP

chapter, M. Rick Turner, was quoted as saying that his organization in fact supported the American Clean Energy and Security Act because they believed it would create well-paying jobs and reduce pollutant emissions, especially in urban areas. The article quoted him as saying, “Clean energy creates jobs in the urban setting.”<sup>52</sup>

According to the article, at least one of the unauthorized letters was tracked back to a Washington, D.C., lobbying firm, Bonner & Associates. A representative of the firm was quoted as saying the letter was “a mistake,” and that, as soon as Bonner & Associates learned of the incident, they fired the person responsible. The article went on to quote *Creciendo Juntos*’ Freilich as stating that he was “offended” by the Bonner & Associates representative characterizing the unauthorized letter as a “mistake.” According to the article, Freilich rejected this characterization, saying, “This was a deliberately and carefully forged letter. . . .”<sup>53</sup>

The story continued to develop as reports of other unauthorized letters surfaced. Then on August 4, 2009, the *New York Times* reported that the American Coalition for Clean Coal Electricity had hired a public affairs consulting firm, the Hawthorn Group, to lobby against the climate-change legislation, and that Hawthorn had hired Bonner & Associates.<sup>54</sup>

According to the *Times*, the American Coalition for Clean Coal Electricity stated that it “deplored” the tactics of Bonner. The coal coalition reportedly issued a statement saying, “We are evaluating all possible measures—including potential legal action—as part of our commitment to ensure that high ethical standards are followed when conducting outreach to commu-

**Issues can get even murkier when real organizations are “hijacked” and used as front groups. A case that garnered national attention last summer illustrates this troubling new twist on the front-group concept.**

nity groups, elected officials and other members of the public.”<sup>55</sup>

On August 21, 2009, *Environmental Leader* reported that additional unauthorized letters had been uncovered. They included a letter that had supposedly been sent by a woman in a nursing home, stating that senior citizens were concerned about how the climate-change bill could increase electricity bills.<sup>56</sup> The *Environmental Leader* story went on to report:

This comes against a backdrop of companies and advocacy groups pushing harder than ever, and spending more than ever, to make their voices heard on climate change. In the 12 weeks leading up to the House of Representatives’ vote on the American Clean Energy and Security Act, more than 460 new businesses and interest groups jumped into the fray.

Nearly 1,150 different organizations are known to be paying a lobbyist to influence climate legislation one way or another, according to the Center for Public Integrity.<sup>57</sup>

### ***Dangers Posed by Front Groups***

Those familiar with legislative and regulatory processes are aware that legitimate interest groups of all types (representing businesses, unions, environmental advocates, and others) are likely to weigh in during the process of crafting new laws and regulations. Business-related organizations may offer dire predictions about how the law or regulation under consideration will

affect business and the economy, while environmental groups may voice equally alarming warnings about how failure to adopt the proposal will hurt the environment. Invariably, some of these groups may “shade” the truth.

Front groups can add a disturbing element to an already confusing process. When messages appear to be coming from persons who are assumed to have associations and motives that they do not actually have, intelligent public discourse and informed decision making become ever more difficult.

The public tends to judge messages in light of the messengers who deliver them. So communications purporting to come from respected organizations or from groups of concerned citizens are likely to have at least some credibility.

Even when the public thinks that nonprofit organizations or groups of concerned citizens may have some of their facts wrong, they typically give such groups “points” for sincerity. A front group that poses as a legitimate organization can thus unfairly enhance its credibility and influence.

### ***Citizen Suits, Environmental Advocacy Groups, and Plaintiffs’ Attorneys***

Many environmental statutes include citizen-suit provisions that allow members of the public to act as extensions of the regulatory authorities. These provisions are intended as an alternative mechanism for fighting pollution and protecting the environment, not as a means for private organizations to enrich themselves.

### ***Financial Gain for Environmental Advocacy Groups?***

But Barnett and Terrell have documented instances in which citizen suits may be brought by environmental advocacy groups for financial gain:

Though settlements obtained by citizen suits filed against private firms are osten-

sibly structured to avoid providing a profit motive to citizen enforcers, there are two elements common in these settlements that can produce a pecuniary reward to citizen suits. The first element is the set of “credit” programs, which amount to payments to environmental organizations; the second is the above-cost reimbursement of attorneys’ fees.<sup>58</sup>

According to Barnett and Terrell, attorneys’ fees are paid at the market rate for private attorneys, which can be significantly higher than the rate paid to attorneys who work for nonprofit environmental advocacy groups. This allows advocacy groups to reap profits, even though citizen-suit provisions do not allow compensation for damages.<sup>59</sup>

I have yet to encounter personally an environmental advocacy group that has appeared to file lawsuits primarily for monetary gain, but I have included discussion of Barnett and Terrell’s assertion because it is clear that such activities could in fact exist.

In addition to the types of enrichment discussed by Barnett and Terrell, citizen suits can offer more indirect routes to financial gain for environmental advocacy groups. Successful lawsuits can provide a financial boost to advocacy groups by attracting new members and helping to retain old ones. Moreover, successful citizen suits can aid an advocacy group in attracting grant money from foundations that are impressed by the group’s effectiveness. With grant dollars becoming ever more difficult to attract in the current economy, successful citizen suits can give an advocacy group a competitive edge in the quest for foundation money.

### ***Citizen Suits and Plaintiffs’ Attorneys***

Another provocative view regarding the use of citizen suits for monetary gain is offered by Leon-

ard Kurfirst, an environmental/toxic tort defense attorney with Wildman, Harrold, Allen & Dixon LLP, a Chicago-based law firm. Kurfirst, who typically gets involved when litigation is considered or has already been filed, suggests that some citizen suits may serve as a prelude to tort litigation by plaintiffs’ attorneys seeking large monetary awards and attorneys’ fees.

Kurfirst acknowledges that many citizen suits are legitimate actions initiated by concerned citizens looking for injunctive relief (e.g., the cessation of polluting activities). He stresses that there are many genuine citizen suits that have no ties to outside plaintiffs’ attorneys. “Legitimate citizen suits seek to get the agency involved.

Grassroots groups simply want something to stop, such as discharges or other emissions,” he explains.

In some instances, however, plaintiffs’ attorneys with other mo-

tives may approach community residents after a citizen suit has been filed, or they may encourage the filing of the citizen suit from the very beginning. “We look at what’s behind it—the filing of the suit. Many times it’s supported by plaintiffs’ attorneys seeking to move a case forward,” says Kurfirst.

Why would plaintiffs’ attorneys do this? Because, Kurfirst explains, citizen suits can prompt regulatory agencies to take action against the company or facility that is being sued. The agency’s action can then be used as evidence in a subsequent “toxic tort” lawsuit, which has the potential to yield substantial settlements for damages to persons or property. Citizen suits can also help plaintiffs’ attorneys identify people whom they might be able to represent in future litigation.

**With grant dollars becoming ever more difficult to attract in the current economy, successful citizen suits can give an advocacy group a competitive edge in the quest for foundation money.**

According to Kurfirst, plaintiffs' attorneys frequently target an entire industry. If they are successful with lawsuits against the industry in one part of the country, they may bring identical suits in other parts of the United States as well.

Kurfirst indicates that some plaintiffs' attorneys conduct their work in the manner of "an investment pool." He explains:

You will find that they will use the same group of experts in suits in different jurisdictions. Three or four people who can speak to specific issues, such as environmental management, toxicology, ex-

posure pathways. These groups of experts will work with the attorneys and reach out to the environmental agencies. They will also contact the media to get infor-

mation useful to the lawsuit out to the public. It's fairly common, once the litigation is planned, for plaintiffs' attorneys to hire media consultants to help them with the messaging.

Kurfirst goes on to note:

Often a plaintiffs' consortium will look to invest in a community issue that they can develop into a lawsuit. They will go to the environmental agencies and ask them to investigate or take action, and they will go to community groups and make presentations. And since at some point they have to produce published literature to support their claims, they [plaintiffs' attorneys] may support groups that are doing research that could benefit them or

underwrite the cost of an expert to prepare a report.

From a community relations/public involvement viewpoint, the greatest harm that such orchestrated actions pose derives from the broad and frightening statements that plaintiffs' attorneys often make in their drive to recruit litigants. Says Kurfirst, "Plaintiffs' attorneys like to allege community-wide exposure, even though exposure pathways and sources can differ dramatically from home to home." He adds that broad statements can work because the public often accepts anecdotal reports offered by attorneys:

They may say, "everyone here either has cancer or knows someone who has cancer, so it must be because of X." Right there, you have a red flag. Approximately 50% of men who live to the age of 70 will get some form of cancer, and almost as many women, but it's still a scary claim, and a lot of fear is generated. People don't realize that, in many cases, the people they know of have different types of cancer—lung, pancreatic, colon—and they couldn't all come from exposure to one specific chemical. I don't know of any chemical that can cause all types of cancer, but the public may not understand this.

In cases where additional lawsuits are filed on the heels of citizen suits, he adds that attorneys such as himself, who work for the defense, look closely at where the interest for the suit is being generated, as well as who was behind the original citizen suit. Because plaintiffs' attorneys, if successful in one part of the country, often file the same type of suit elsewhere, Kurfirst says that he and other defense attorneys have to pay attention to litigation throughout the United States.

**Broad statements can work because the public often accepts anecdotal reports offered by attorneys.**

“We look at whether misinformation is being used elsewhere, because this same misinformation can spread and, once it gets momentum, it’s hard to correct,” he says.

So how do defense attorneys deal with lawsuits that are treated as a type of investment for generating large awards and attorneys’ fees? Kurfirst explains:

From our perspective, we make sure the community receives accurate information. For example, we explain concepts such as “background concentrations.” A plaintiffs’ attorney may tell people in a community that there is arsenic in the soil and that they are being exposed to arsenic, and that the facility the attorney wants to sue used arsenic. We talk about the fact that arsenic is ubiquitous, that it’s naturally occurring, and that arsenic in the soil may not be tied to arsenic use at a business. We also talk about whether the exposure is below recognized risk levels.

Kurfirst adds that defense attorneys do not typically claim straight out that plaintiffs’ attorneys are pursuing litigation to make money. “We explain the facts. We let the facts speak for themselves,” he says.

### **Concluding Thoughts**

Hidden agendas matter because their pursuit adds confusion and uncertainty to dialogues about environmental protection and risk—dialogues that are already inherently complex. Hidden agendas can distract from legitimate concerns that the public, industry, and regulators ought to be addressing.

As with any public lie, the damage done can be considerable. It can also reverberate for years, distorting public perceptions and hindering the making of vital decisions. This is why groups such

as PRSA, which understand the power of communication in shaping public perceptions, take unethical and misleading communications so seriously.

Community relations/public involvement practitioners need to be able to identify ulterior motives in order to understand how otherwise straightforward messages can be twisted. But what can practitioners and their clients do once they recognize that certain stakeholders may have hidden agendas?

In some cases, the client may choose to do nothing. They may decide to leave the hidden motives unremarked and untouched and simply address the environmental issues at hand. If the client must maintain an ongoing relationship with a stakeholder that is spreading misinformation (as is the case in many union-management situations), the damage that could be done to the relationship by revealing the stakeholder’s hidden agenda and “dirty tricks” may be too high a price to pay.

In other cases, however, “outing” the motives behind misinformation should be seriously considered. Just remember that revealing hidden agendas requires a delicate touch. The client can damage its reputation if it appears to be trying to “offload” blame onto another party. This can be especially dangerous if the other party appears credible to the public, and the client is already viewed with suspicion.

A viable option in such situations might involve setting forth factual information about the environmental issue at hand and stating dispassionately that you have reason to believe that the group spreading misinformation may have other concerns that are influencing some of their comments.

**Hidden agendas matter because their pursuit adds confusion and uncertainty to dialogues about environmental protection and risk—dialogues that are already inherently complex.**

If the client has proof that a hidden motive is in play, briefing the media and other key stakeholders regarding what you believe may be taking place can go a long way toward minimizing the damage that hidden agendas can cause—both to the client and to the public’s understanding of environmental protection and risk.

## Notes

1. I haven’t bothered to include in this article the very common phenomenon of politicians or persons seeking to be elected to public office using environmental issues to garner publicity or disparage their opponents in the quest for votes. These situations are so common that community relations/public participation practitioners look for them as soon as they are handed a project. Most other consultants, business owners, and government employees recognize them for what they are as soon as they are pointed out.
2. Yandle, B. (1983, May/June). Bootleggers and Baptists—The education of a regulatory economist. *Regulation*, 7(3), 12–16. Available online at <http://www.cato.org/pubs/regulation/regv7n3/v7n3-3.pdf>.
3. Yandle, B. (1999). Bootleggers and Baptists in retrospect. *Regulation*, 22(3), 5–7. Available online at <http://www.cato.org/pubs/regulation/regv22n3/bootleggers.pdf>
4. *Ibid.*
5. See note 2, at p. 12.
6. Barnett, A. H., & Terrell, T. D. (2001). Economic observations on citizen-suit provisions of environmental legislation. *Duke Environmental Law & Policy Forum*, 12(1), 1–38, at p. 25. Citing Adler, J. H. (1997). *Environmentalism at the crossroads: Green activism in America*. Rockville, MD: Abs Consulting.
7. *Ibid.*, Barnett & Terrell, at p. 25. Quoting from Adler, J. H. (1997). *Environmentalism at the crossroads: Green activism in America*. Rockville, MD: Abs Consulting.
8. Hong, P. (1991, April 29). Old motor oil is dirty—But is it “toxic”? *BusinessWeek*. Available online at <http://www.businessweek.com/archives/1991/b321161.arc.htm>.
9. *Ibid.*
10. At the time, many of Safety-Kleen’s facilities were still in “interim status” (Part A) under RCRA, but work on obtaining Part B operating permits was well under way for these facilities.
11. See note 8.
12. Personal conversations with Safety-Kleen senior management by author.
13. See note 6, Barnett and Terrell, at p. 24. Quoting Yandle, B. (1997). *Common sense and common law for the environment: Creating wealth in hummingbird economies*. Lanham, MD: Rowman & Littlefield.
14. Bennett, J. T. (1995, January). Selling its reputation: The American Lung Association. *Alternatives in Philan-*

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15. Dombrowski, C. (1994, June 1). HAZWASTES: Tighter regs to be issued for off-site hazwaste services demand regs. *WasteAge*. Available online at [http://wasteage.com/mag/waste\\_hazwastes\\_tighter\\_regs/](http://wasteage.com/mag/waste_hazwastes_tighter_regs/).
16. *Ibid.*
17. *Ibid.*
18. *Ibid.*
19. See note 14.
20. Merline, J. (1997, May 4). Selling seals of approval: How companies get charities to endorse their products. *Slate*. Available online at <http://www.slate.com/toolbar.aspx?action=print&id=2441>.
21. See note 14.
22. *Ibid.*
23. *Ibid.*
24. See note 20.
25. *Ibid.*
26. See note 6, Barnett and Terrell, at p. 29.
27. *Ibid.* Quoting Northrup, H. R., & White, A. T. (1995). Construction union use of environmental regulation to win jobs: Cases, impact, and legal challenges. *Harvard Journal of Law and Public Policy*, 19(1), 55–119.
28. Woody, T. (2009, June 18). A move to put the union label on solar power plants. *New York Times*. Available online at <http://www.nytimes.com/2009/06/19/business/energy-environment/19unions.html>.
29. *Ibid.*
30. *Ibid.*
31. *Ibid.*
32. Hinch-Ownby, M. (2009, June 25). Is greenmailing the new blackmailing? Are aggressive unions a hindrance or a benefit to emerging and expanding clean energy companies? *Mother Nature Network*. Available online at <http://www.mnn.com/business/green-jobs/blogs/is-greenmailing-the-new-blackmailing>.
33. *Ibid.*
34. *Ibid.*
35. See note 28.
36. Morrison, C. (2009, June 25). Union shakedowns face renewable energy companies. *BNET Energy Blog*. Available online at <http://industry.bnet.com/energy/10001531/union-shakedowns-face-renewable-energy-companies/>
37. *Ibid.*
38. Douglas, K., & Smartt, S. (2005, March 30). Letter to Senator Martha Escutia, Chair, Senate Committee on Energy, Utilities and Communication, Available online at <http://www.sbctc.org/cure/default.asp?id=2400&pagetype=halfpage>.
39. *Ibid.*
40. Both PR Watch ([prwatch.org](http://prwatch.org)) and Source Watch ([sourcewatch.org](http://sourcewatch.org)) offer extensive information on how to look for

information on groups sponsoring various messages to better understand their motivations.

41. Landman, A. (2009, August 28). Attack of the living front groups: PR Watch offers help to unmask corporate tricksters. Available online at <http://www.prwatch.org/node/8531>.

42. Public Relations Society of America. (2009, August 27). PRSA condemns the growing use of disingenuous editorial content, deceptive commentary on blogs and other venues. PRSA Newsroom. Available online at [http://media.prsa.org/article\\_display.cfm?article\\_id=1370](http://media.prsa.org/article_display.cfm?article_id=1370).

43. It should be noted that there is, or has been, a genuine environmental advocacy group that used this same name. The PEEP that I write about here, which was exposed as a front group, was not related to them.

44. See note 6, Barnett and Terrell, at pp. 27–28.

45. Ibid., at p. 28. Quoting Tripoli, L. (1996, November). Think globally, sue locally: Uncovering the citizen front. *Inside Litigation*, 10, 1–5, at p. 3.

46. See note 6, Barnett and Terrell, at pp. 27–28.

47. Memorandum from Charles Lamb to Phil Retallick, Cement Kiln Strategy. (1995, November 17). On file with authors Barnett and Terrell, note 6.

48. See note 6, Barnett and Terrell, at p. 28. Additional infor-

mation was obtained through the author's personal conversations with environmental groups in Texas.

49. This case was one of several mentioned in the PRSA's condemnation of deceptive practices in its August 27, 2009, statement, referenced at note 42.

50. McNeill, B. (2009, July 31). Forged letters to congressman anger local groups. *Charlottesville Daily Progress*. Available online at <http://www2.dailyprogress.com>.

51. Ibid.

52. Ibid.

53. Ibid.

54. Strom, S. (2009, August 4). Coal group is linked to fake letters on climate bill. *New York Times*. Available online at <http://www.nytimes.com/2009/08/05/us/politics/05charity.html>.

55. Ibid.

56. Environmental Leader. (2009, August 21). More fake letters opposing climate change bill unearthed. Available online at <http://www.environmentalleader.com/2009/08/21/more-fake-letters-opposing-climate-change-bill-unearthed/>.

57. Ibid.

58. See note 6, Barnett and Terrell, at p. 9.

59. Ibid., at p. 12.

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