



US Army Corps of Engineers
Omaha District



Corps' Regulatory Program and Water/Land Use Planning: The Role of Need

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Regulatory Program

- Regulate activities in waters of the United States
 - Section 404 Clean Water Act
 - Section 10 Rivers and Harbors Act
- Permit actions bring along other statutes
 - National Environmental Policy Act
 - Endangered Species Act
 - National Historic Preservation Act



Regulatory Program

- Normally reactionary rather than planning focus
 - Permit application initiates action
- Can rely upon others planning efforts
 - State water plans
 - County/municipal land use plans
 - Utility integrated resource plans
- Need for proposed action framed from these efforts



Needs Analysis

- Corps required to evaluate need of proposal
 - NEPA - 40 CFR 1502.13, 1508.9(b) and Appendix B 9(b)(4)
 - Public interest review - 33 CFR 320.4(a)(2)(i) and 325.1(d)(1)
 - Various guidance and case law
- Requires information be provided by applicants/participants
 - Must be validated in review process



Needs Analysis

- Intensity of analysis adjustable in light of level of impact, type of NEPA document, and relevance to public interest.
- Amount of water needed translates directly to effects on aquatic resources
- Can involve substantial effort/costs



Needs Analysis

- Factors evaluated for water supply need
 - Demand rates
 - Reliability criteria (e.g., 1 in 50 drought)
 - Conservation measures
 - Growth projections and land use plans
 - System operations
 - Current water supply portfolios
 - Rights, contracts, leases



Needs Analysis

- Critical to Regulatory decision making
 - Definition of Project Purpose
 - Alternatives Analysis
 - Impact Assessment
 - Compensatory Mitigation
- Corps can conclude that need is speculative



Improving Permit Process

- Water supply projects don't always meet with success in Regulatory permit process
 - 2000s - Newport News, VA Ware Ck/King William
 - 26+ years, \$50 million spent, litigation, no project
 - 1990s - Marion, IL Sugar Creek Lake
 - 17+ years, millions spent, litigation, no project
 - 1980s - Denver , CO Two Forks
 - 10+ years, \$41 million spent, litigation, no project



Improving Permit Process

- Testing integration of a collaborative method with the permit process
 - Cities of Ft. Collins and Greeley, CO
 - Agreed to open proposed reservoir expansions to limited collaborative process



Improving Permit Process

- Using Shared Vision Planning
 - Developed by Corps' Institute for Water Resources
 - Water resources planning
 - Up-front and structured involvement of stakeholders
 - Collaborative modeling
- Numerous NGOs and agencies engaged:
 - The Nature Conservancy, Trout Unlimited, others
 - EPA, USFWS, USFS
 - Colorado Division of Wildlife
 - Academia



Improving Permit Process

- Built initial framework of the shared model
- Established ground rules
- Identified initial key resources
- Formed focus teams
- Framing resource assessment needs
- Building metrics



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Improving Permit Process

- For more information on Shared Vision Planning and the Colorado test case:

<http://www.svp.iwr.usace.army.mil/>

<http://www.svp.iwr.usace.army.mil/initiatives.cfm>

<http://groups.google.com/group/halligan-seaman-svp/web/svp-blog>