U.S. Army Corps of Engineers

Permit Process Overview

AAPA Miami

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U.S. Army Corps of Engineers

Regulatory Program

- 1200 regulators
- 90,000+ permits issued in FY 07
- Conducted over 100,000 wetland delineations
- Enforcement: ~1000 Actions
- Responsible for permit Compliance and enforcement activities
Define the Permit Boundaries

US Army Corps of Engineers

Process

Individual Permit Process:
- Application Comes In
- Log into System
- PM Reviews for Completeness
- JD
- Public Notice
- Coordination with Agencies (401, CZM, 106, Tribal Trust, ESA, EFH, etc.)
- Decision Document
- Decision Sent

Inputs:
- Application
- Request JD
- Pre Application Meeting
- Policies, Laws, Guidelines, etc.

Suppliers:
- Applicants
- Agents
- Relative SOP
- Environmental
- Land Owners
- Resource Agencies
- Local State Agencies

Trigger:
- Receipt of Request (JD, Application)

Outputs:
- Permit Decision

Customer:
- Applicant
- Taxpayer

Done:
- Receive Permit or Denial Letter

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Individual Permit Process

Pre-Application Phase
Public Notice
Response to comments
Environmental Assessment
Finding of No Significant Impact (FONSI)
Individual Permit Process with EIS

Pre-Application Phase
Decision to conduct EIS
Applicant’s Consultants Analyze Impacts*
Draft EIS/Public Notice*
Response to comments*
Additional Studies*
Final EIS/Draft 404(B)(1) Analysis*
Record of Decision/Final 404(B)(1) Analysis

* Corps Oversight
Granting/ Denying a Permit: the Decision-Making Process

- NEPA & Public Disclosure
- Guidelines
- Public Interest Review
- Other Legal Requirements

ONE Decision Document

The process can seem daunting - know your rights and responsibilities as applicants. Accurate and timely information is key.
A FONSI / FOSI is ultimately the decision of the District Commander.
Guidelines -
The Decision-Making Process

- 404 (b)(1) Guidelines
  (developed by Corps & EPA for 404 projects only)
  - least environmentally damaging practicable alternative
  - compliance with other state and federal standards
  - significant degradation
  - minimize/mitigate aquatic resource impacts
Public Interest Review - The Decision-Making Process

- Public Interest Review
  - performed on all Individual permits
  - balance benefits against detriments to public
  - Corps decision to issue unless “contrary to the public interest”
  - 20 public interest factors (needs & welfare of the people)

- Wetlands
- Aesthetics
- Recreation
- Property Rights
- Energy Needs
- Economics
Other Legal Requirements - The Decision-Making Process

- Other laws
  - Endangered Species Act
    (request comment from FWS & NMFS)
  - National Historic Preservation Act
    (request comment from State Historic Preservation Officer)
  - Additional laws based on project and geographic-specific information

The opinion of the agencies are important - they are the experts - heed their advice - We develop relationships with these agencies
When a permit is justified, but requires mitigation….

- Mitigation compensation
  - Establishment (creation)
  - Restoration (re-establishment, rehabilitation)
  - Enhancement
  - Protection/maintenance (preservation)

Most permits will require mitigation

There is much work to do to ensure mitigation success - think out of the box - seek balance
Roadblocks towards Arriving at a Decision

- Complexity of decision-making: documentation
- Insufficient information from the applicant
- Lots of interest from non-governmental groups
- Delays with other agencies: water quality, coastal consistency, ESA, etc.
- People attempting to use Corps outside of its authority

Regulatory is one of the most complex and controversial missions in the entire Corps
Work with our Regulators to get to a decision
Regulatory Branch

http://www.usace.army.mil
“Services for the Public”
“Regulatory/Permits”

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