

# Environmental Compliance & Interagency Coordination in a 3x3 Environment

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US Army Corps of Engineers  
**PLANNING SMART  
BUILDING STRONG®**

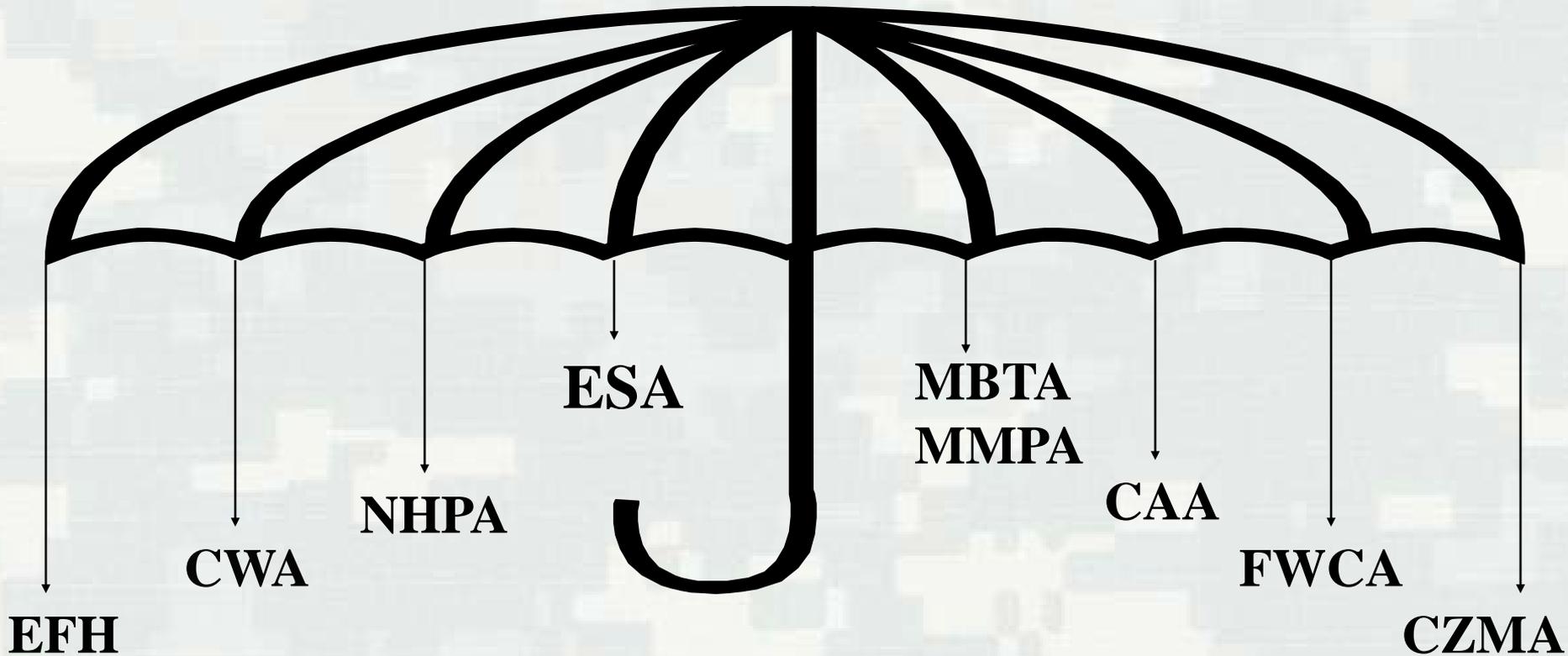


# Preview

- ▶ Relationships: Plan Formulation & NEPA Process
- ▶ Common Misconceptions, SMART Planning Truths
- ▶ Environmental Evaluations & Compliance:  
Addressing Timing, Scope, Data Needs
- ▶ Tips for Meeting Compliance on a 3x3 Schedule &  
Budget
- ▶ Update on the USFWS & NMFS Coordination  
Guide
- ▶ Next Steps in Training
- ▶ Discussion & Questions



# National Environmental Policy Act



Relationship to other Environmental Laws



# Formulation Tasks



# NEPA Tasks

## Plan Formulation

- Scope for project
- Specify Problems and Opportunities, Purpose & Need
- Inventory and Forecast Conditions (Future Without)
- Formulate alternative plans
  
- Evaluate effects of alternative plans
- Compare alternative plans
  
- Select a Tentative Selected Plan
- Release for Public Review

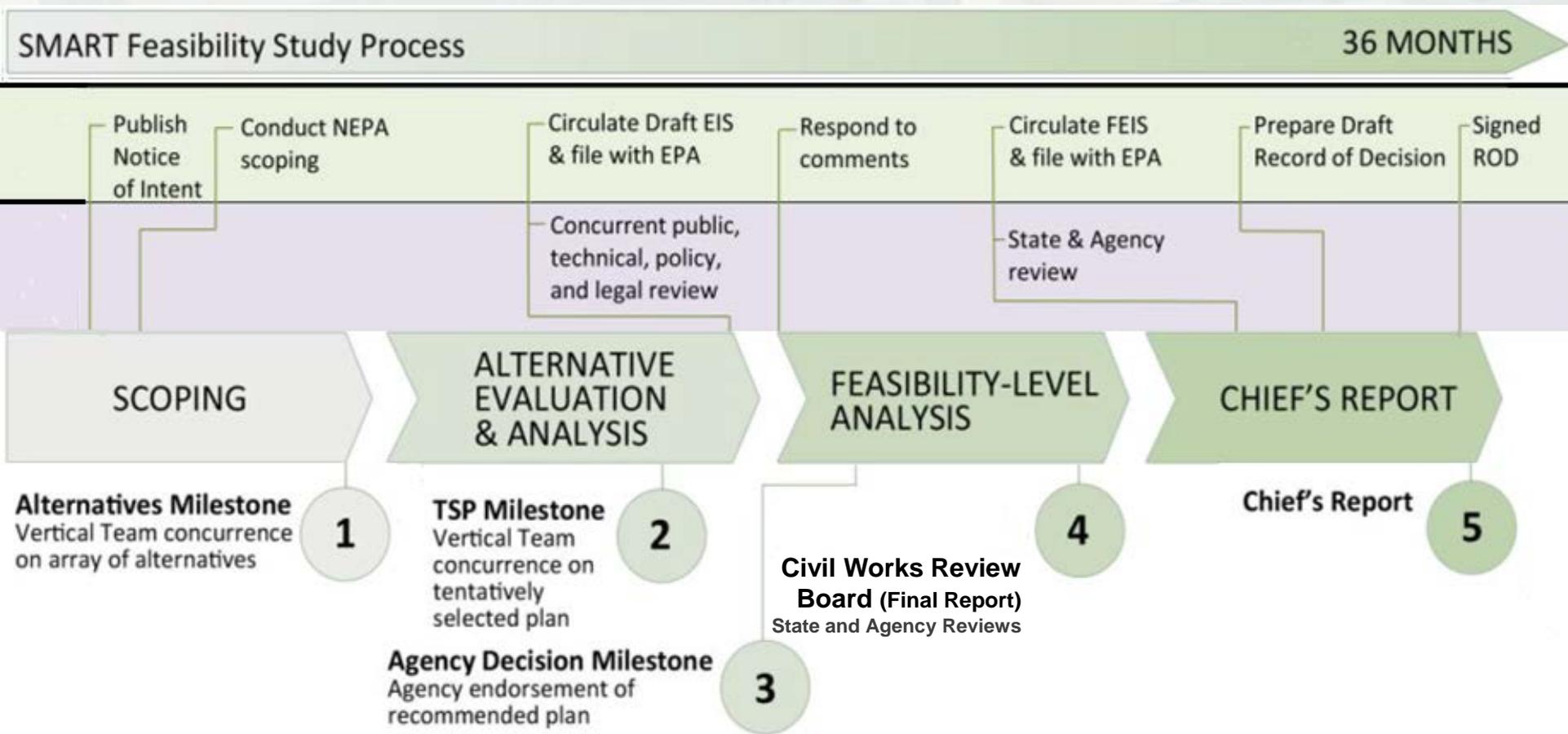
## NEPA Compliance

- Scope for NEPA
- Describe Purpose and Need
  
- Describe Existing Conditions, trends, No Action alternative
- Include reasonable range of alternatives that address purpose and need
- Evaluate effects to resources
  
- Compare alternatives to No Action, ID the Environmental Alternative
- Identify the Agency Preferred Plan
  
- Release for Public Review



# Environmental Compliance in Smart Planning

SMART Planning Feasibility Study process and principles are consistent with the spirit of NEPA and CEQ's direction on NEPA implementation.



# SMART PLANNING MILESTONES

## ❖ Alternatives Milestone (AM)

- Signing FCSA
- Develop preliminary alternatives
- Scoping and initiate interagency regulatory tasks

## ❖ Tentatively Selected Plan (TSP)

- Project alternatives evaluation and analysis 
- Justification of plan selection & mitigation measures
- Draft Report, Draft BA, & 404(B)(1) analysis ready

## ❖ Agency Decision (ADM)

- Review processes
- Draft Integrated Report out for review
- Response to review comments

## ❖ Civil Works Review Board (CWRB)

- Improving accuracy of implementation costs, engineering effectiveness, and economic analysis (feasibility level analysis) on the TSP
- Finalizing the Integrated Final Report.

## ❖ Chief's Report (CRM)

- Final Document released for State & Agency Review
- Final Document released for NEPA review

\* The identified tasks are to be completed **prior to**, & facilitate getting to, the identified milestones.



# Common Environmental Questions

- What tasks and products are due at each 3x3 milestone to meet environmental requirements in a feasibility study?
- What is the right scope of analysis at each milestone?
- How much environmental inventory is needed? When?
- When should data be collected to address mitigation? At what level of detail?
- When do I run the ecological models and conduct CE/ICA?
- When should the Monitoring and Adaptive Management Plan be developed?
- How are tasks for environmental compliance captured in the Risk Register?



Bad chicken joke,  
Skokomish Basin, WA



# Common Misconceptions

- ❌ SMART Planning means to provide "less level of detail".
- ❌ SMART Planning allows teams to "move analysis and project compliance out until PED".
- ❌ SMART Planning means you can't get new data, based on time and budget limitations.

No No No No



# Misconceptions & Truths

## SMART Planning Truths:

- ✓ SMART Planning is not about eliminating or providing a less detailed assessment, it is about scoping to the criteria needed to make an informed decision. It is a deliberate, focused selection of criteria to compare alternatives and quantify differences, including the differences in impacts to environmental resources.
- ✓ Using your criteria, you will get the data you need to make supportable decisions and demonstrate environmental compliance. In usual cases, this will be complete by the TSP.
- ✓ SMART Planning does not eliminate data collection; it refocuses collection to decision criteria, gathered before the next decision is made that would use it.

So what does this mean in application to a milestone?



# Project Start to Alternatives Milestone (AM)

## Addressing Misconceptions on Timing, Scope, & Data

Goal: The development of preliminary alternatives and screening criteria, initiating agency and stakeholder engagement, and preparing Review Plan for products.

### PDT Questions:

- ▶ What do you need?
- ▶ Where do you get it?
- ▶ What are your environmental tasks?
- ▶ Is it Qualitative or Quantitative?
- ▶ What is the risk to using this level of detail in this phase of the study?



# Study Launch to Alternatives Milestone

## ▶ What do you need for this Milestone?

- ▶ ID environmental resources
- ▶ ID potential concerns
- ▶ Develop decision criteria
- ▶ Model considerations & selection

## ▶ Information comes from:

- Inventory existing information, data bases (NWI), files, online.
- PDT/Sponsor knowledge of the area & previous studies.
- Scoping activities with the Public, Federal & State resources Agencies, Tribes, and interested stakeholders.
- Initiating ESA with Services (initiation letters, responses).
- Initiate 106 Coordination; begin defining study area.
- Identifying gaps in information (Relevancy & Risk analysis).



# Environmental Tasks: Study Launch to AM

- Scoping: Integrate NEPA & Plan Formulation scoping
  - Federal Register Noticing (NOI)
  - *Documentation of scoping results for the Report*
- Initiate ESA & 106 coordination w/ Agencies & Tribes
  - Request T&E lists
  - ID known/surveyed cultural or historic locations
  - *Consultation/coordination letters, resources documented in Report*
- Invite Cooperating Agencies
  - *Formal letter & negotiated MOU*
- Initiate FWCA coordination
  - *Negotiate SOW & MIPR funds*
- Compile Public, Agency, Tribal concerns, ID significant resources to consider
  - *Document in the Report*



# Environmental Tasks: Launch to AM (cont.)

- Develop environmental screening criteria to differentiate between preliminary alternatives impacts;
  - *Document screening criteria and how it will be measured.*
- Determine info that exists vs. needs; Scope for data needs.
  - *Inform Risk Register, DMP, Report Synopsis. Populate and ID issues, adequately describe impact of decisions.*
- Models – ID preferred model and develop model Review Plan (RP); Start Model certification and review process:
  - ER projects should seek certification as early as practical;
  - *RP for Feasibility Report – ID models & environmental reviewers needed*
- Provide Environmental SOW and PMP integration.



# Project Start to Alternatives Milestone

## ► Qualitative or Quantitative?

- Environmental criteria can be qualitative.
- PDT must be able to discern effects between preliminary alternatives identify sensitive areas.

## Example:

- ❖ You have data on critical species habitat (ESA) or important resources (wetlands).

Using GIS and best professional judgment , team can determine where preliminary alternatives overlap these areas.

The team can practice avoidance and minimization, and describe potential impacts by demonstrating which alternatives have more or less effect to the sensitive habitat, or high, med, low potential impacts/benefits, acres of potential impact; etc.



# Project Start to Alternatives Milestone

## What is the risk?

- Level of detail is based on best estimate of effects/ impacts. This may screen out or leave in alternatives that are later revisited.

## Risk Reduction Measures:

- Initiating interagency activities;
- Identification of criteria for impact assessment and benefits:  
= early consideration of resources and concerns, model selection, measure development, data needs, and informed decisions.



# Getting to the Tentatively Selected Plan (TSP)

## Addressing Misconceptions on Timing, Scope, & Data

Goal: Narrow scope of array of alternatives to identify a TSP using selected criteria, including environmental analysis as factor in formulation, and mitigation measures identified for each alternatives.

### PDT Questions:

- ▶ What do you need?
- ▶ Where do you get it?
- ▶ What are your environmental tasks?
- ▶ Is it Qualitative or Quantitative?
- ▶ What is the risk to using this level of detail in this study phase?



# AM to the Tentatively Selected Plan

- ▶ What do you need for this Milestone? Information to:
  - Evaluate affected environment of each plan against the future without project condition.
  - Select criteria for identifying a TSP and measuring mitigation.
    - ▶ Information comes from:
      - Scoping, data collection, and survey activities.
      - Descriptions & recommendations in the Draft FWCA Report.
      - ESA lists from the Services; 106 Coordination with SHPO/THPO; other coordination per regulation.
      - PDT data/H&H for design and operations of each alternative.
      - Environmental Specialist/Biologist applying principle of ecology/experience to describe effects of actions.
  - ID Mitigation for each alternative, if needed.
  - Produce the Monitoring and Adaptive management plan.



# Environmental Tasks: AM to TSP

## - *Integrate the following narratives into the Report:*

- Describe affected environment / baseline (NEPA).
- Receive draft FWCA Report; Address FWS recommendations.
- Environmental evaluation and comparison of alternatives:
  - Describe environmental impacts per alternative;
  - Include mitigation per alternative.

## - *Prepare the coordination documents & update compliance in Report:*

- Prepare draft BA(s), if needed. Concurrent release to Services with the Draft Report.
- Prepare 404(b)1 analysis (circulate with Draft Report).
- EFH / Magnuson-Stevens determinations, consultation document.
- Cultural Resources review; SHPO/THPO concurrence on APE.
- Analysis for Prime & Unique Farmland, Wild & Scenic River, Migratory Bird analysis, etc.
- HTRW Phase 1 analysis, if needed.



## Environmental Tasks: AM to TSP (cont.)

- Environmental Modeling and CE/ICA analysis:
  - Ecosystem Restoration: Model certified at AM; Collect data, run model; Conduct CE/ICA analysis to determine TSP.
  - Mitigation: If mitigation measures drive costs or plan selection, use/get certified model; collect data, run model, conduct CE/ICA analysis;
  - All other mitigation: Include preliminary costs with mitigation measures; model certification by ADM; modeling & CE/ICA analysis completed for Final Report.
    - *Model analysis, CE/ICA analysis in appendix, summary in Draft Report.*
- Prepare Draft Monitoring and Adaptive Management Plan. Detailed plan includes ‘triggers’ and success criteria.
  - A critical component of ER projects, details presented at TSP.
  - Mitigation monitoring plans can be more general in Draft Report.
    - *Attach Adaptive Management Plan as appendices to Draft Report.*
- Risk Register – review/update risks, ID new tasks.



## AM to the TSP

- ▶ Qualitative or Quantitative? It depends.
  - Environmental criteria should be quantitative on any resource used to determine benefits of ecosystem restoration or driving decision making.
  - For restoration or mitigation driving the plan selection, a certified model will determine benefits/mitigation and be used in the CE/ICA analysis for plan selection.
  - For other mitigation, parametric costs and best assessment of impacts can guide analysis for draft; A quantitative assessment with certified model will be required for Final Report.



# AM to the TSP

## Examples:

- ❖ ER projects: Quantified Habitat Units (ex. HSI x acre), & CE/ICA.
- ❖ Mitigation: Qualitative discussion, that includes discussion of significance of the impact, on resource, with developed mitigation measures that would be described with each alternatives to address the types of impacts that may be experienced.
- ▶ What is the risk?
  - It is possible to have selected criteria that is not as informative as anticipated, leaving more work to justify plan or account for effects.
  - With the draft report released, there is risk that unknown concerns or resources may be identified & require changes in the plan.
  - If Draft Report is released without the appropriate detail, agencies and public cannot perform informed review. This could lead to revisions and re-release of the Draft Report.



# Getting to the Agency Decision Milestone (ADM)

## Addressing Misconceptions of Timing, Scope, & Data

Goal: The Draft Report has been released after the TSP. Concurrent review processes are taking place. Continue to work with agencies on consultations, incorporate public, tribe, and agency comments, identify any significant concerns or issues.

### PDT Questions:

- ▶ What do you need?
- ▶ Where do you get it?
- ▶ What are your environmental tasks?
- ▶ Is it Qualitative or Quantitative?
- ▶ What is the risk to using this level of detail in this phase of the study?



# TSP to the Agency Decision Milestone

## ▶ What do you need for this Milestone?

- Public & Agency Responses to the Draft Reports;
- Other agencies' compliance review;
- Draft Biological Opinion.
- Basic feasibility level design of the TSP;
- ATR/IEPR & Vertical Team Review Comments.

## ▶ Information comes from:

- Public and Agency responses to Integrated Draft Report.
- Draft Biological Opinion (s) from the NMFS/FWS.
- 106 Coordination with SHPO/THPO; surveys as needed.
- PDT data/H&H for design and operations of TSP alternative.
- ATR/IEPR & Vertical Team Review Comments.



## Environmental Tasks: TSP to ADM

- Release of Draft Integrated Report, with draft FONSI (if EA).
  - File Draft with EPA
  - Hold any public meetings needed to solicit public comments.
    - *Notice of Availability in Federal Register; FONSI.*
- Respond to ATR/MSO/OWPR comments.
- ID relevant Public/Agency/Tribe Comments & develop strategy to resolve/address.
  - Review if changes are needed in formulation to address
    - *Prepare draft responses or response strategy;*
    - *Proceed with any needed revisions to the Report*
- Address outstanding policy / technical issues – IEPR.
  - *Document resolution.*



## Environmental Tasks: TSP to ADM

- Conduct Phase II HTRW, as needed.
  - *Survey report*
- Conduct cultural resources field investigations (as needed)
  - *Compliance conclusions & mitigation*
- Certify Mitigation model (if not completed yet).
- Release of BA(s) to USFWS and NMFS (if required).
  - NMFS/FWS Response to BA (non/concurrence – 30 days).
  - Request and Negotiate draft BO (45 day window).
  - ESA Formal consultation begins, if required (90 days to draft).
  - *Consultation documents*
- Receive draft version of Final FWCA Report
- Risk Register – Review prior entries
  - *Final resolution of outstanding issues from Risk Register.*



## TSP to the ADM

### ▶ Qualitative or Quantitative?

- Environmental criteria should be quantitative on regulated resources. Status update given at ADM.
- Ongoing negotiations with resources agencies on mitigation requirements and measures should be specific and measurable.
- ❖ **Examples:** Qualitative impacts discussion on aesthetics.  
Quantitative analysis on listed species.

### ▶ What is the risk?

- As feasibility level analysis & certainty is added to the TSP, the mitigation or effects determinations may need to be updated.
- Review of the draft report may disclose additional concerns or reasonable alternatives that cause changes in TSP, mitigation, or formulation. Measures may be dropped or added.



# Civil Works Review Board (CWRB) Milestone

## Addressing Misconceptions on Timing, Scope, & Data

Goal: Finish feasibility level designs on the TSP. Complete the Final Report and compliance requirements.

### PDT Questions:

- ▶ What do you need?
- ▶ Where do you get it?
- ▶ What are your environmental tasks?
- ▶ Is it Qualitative or Quantitative?
- ▶ What is the risk to using this level of detail in this phase of the study?



# ADM to CWRB Milestone

## ▶ What do you need for this Milestone?

- All environmental compliance processes complete
- All modeling & mitigation quantified and described
- Final FWCA Report
- Final Biological Opinion
- Responses to public & agency comments
- Resolution of all review comments
- Final Adaptive Management and Monitoring Plan.
- Final Integrated Report

## ▶ Information comes from:

- Agencies' compliance documentation/permits.
- Final Biological Opinion (s) from the NMFS/FWS.
- Final feasibility level designs & NEPA conclusions.
- Model run for mitigation on the selected alternative.



# Environmental Tasks: Preparing for the CWRB

*-The Final Integrated Report is produced.*

- Final revisions of report based on comments.
- Update compliance sections of report.
  - Receive Final Biological Opinion (prior to submittal of Final Report pkg to HQUSACE).
  - Final FWCA Report incorporated and responded to in the Report.
  - Received Permits (CWA, etc).
  - Final NHPA concurrence/MOA.
- NEPA comment/response complete.
- Data collection & model run for mitigation on selected plan:
  - Quantified with certified model, & checked for CE/ICA.



# Environmental Tasks: Preparing for the CWRB

- Complete Monitoring & Adaptive Management Plan.
  - *Monitoring & Adaptive Management Plan Appendix*
- Update unsigned FONSI, or if EIS, prepare draft ROD (for HQ, not public release).
  - *ROD / FONSI*



Petroglyph, Columbia River Gorge, WA



## ADM to CWRB Milestone

- ▶ Qualitative or Quantitative?
  - Final mitigation commitments on regulated resources should be explicitly described in the Report. Using certified models, the CE/ICA analysis should justify selection of mitigation measures.
  - A monitoring plan linked to specific measurable performance and adaptive management features is required in the Final Report
  
- ▶ What is the risk?
  - ❖ Incomplete compliance leaves the agency open to reformulation of the project after authorization, additional unaccounted-for expenses, and potentially, litigation.
  - ❖ Project costs increase and implementation takes longer than incorporating environmental compliance into the planning decision from the start.



# Environmental Tasks: CWRB to Chief's Report Milestone

- For document including an EIS, prepare Notice for Federal Register per HQ guidance (if district will release).
  - *NOA*
- Release report for State & Agency review.
- Release Final (File Final with EPA)
- Draft ROD Completion (EIS only):
  - Include response to substantive comments;
  - Update any commitments.
  - *ROD*
- Response to significant comments (if applicable)
  - *Letters from DE*
- FONSI prepped for DE signature (unsigned until after ASA(CW) review)



# Compliance Tips for a 3x3 Time & Budget

## SMART Principles:

- PDT should look at existing data and opportunities to use what they know.
- PDT should focus on criteria that will be meaningful in the analysis to discern differences in alternatives and effects.
- PDT should use criteria that is representative; not all information is needed.
- If the decision criteria is based on data that we do not have, then we need to scope to get it, timely for the decision point that uses it.

## PDT Considerations:

- ▶ An interdisciplinary team that is aligned will be the best time saver. All PDT members should communicate regularly to make sure scope and interdependent products are coordinated.
- ▶ Vertical team is there to help. Early coordination and resolution can save time team may be spinning on issues. ATR coordination is essential.
- ▶ Interagency coordination early in the process is not only required, but efficiently can raise and resolve concerns early. Products we depend on from Services/Agencies must be negotiated early in the process.



# Update on Coordination Document with USFWS & NMFS

## Guide to SMART Planning: Coordinating and Completing U.S. Army Corps of Engineers Water Resources Development Project Feasibility Studies

*FINAL DRAFT v5/21/15  
NOT FOR RELEASE*



# Next Steps



**Seminars**

✓ **Tools**

✓ **PCoP (Jun 04)**

✓ **Webinar (Mar 19)**

Fish Ladder – Bonneville Dam



# Discussion & Questions



Marmot, Glacier National Park



# Guided Discussion & Questions

- Objectives
  - ▶ Recognize and investigate assumptions for achieving timely environmental compliance.
  - ▶ Reinforce understanding of environmental tasks and products at each milestone.
  - ▶ Situate new knowledge within context of current understanding and projects.
- Format
  - ▶ Example scenarios/questions will be provided to get conversation going.
  - ▶ Open floor for questions/scenarios on specific projects or by business line or Division/District.



# Scenarios

- You are lacking empirical data for your SBH study. You will likely need to perform a mail survey or phone/personal interviews.
  - ▶ When will you want to fund your team to plan and perform the survey?
- Your proposed Coastal project is impacting a species for which there is no existing model, or any close substitute. You will need to create a model. Mitigation is anticipated to be expensive and likely impact identification of a preferred alternative.
  - ▶ At what milestone should you initiate consultation?
  - ▶ At what milestone will you need to create your model?
  - ▶ When is your mitigation plan need to be complete?



# Scenarios

- You are embarking on a FRM project. The local sponsor is positive there are no endangered species in the area. It's urban, with farmland on the outskirts. All of it is developed or highly disturbed. The plan is to engage the biologist after ADM.
  - ▶ Could there be concerns with this approach?
- Your Draft report is on the street. During Draft report reviews, there is concern regarding a large area of designated critical habitat for the American Burying Beetle where the staging and borrow areas are planned.
  - ▶ Now what do you do?
  - ▶ How will this impact the ADM or the CWRB?



# Scenarios

- You are the PM on an ER project. Your economist and environmental specialist have provided scopes, including their tasks for CE/ICA. You consider CE/ICA more feasibility-study analysis, so you wonder if this can be done after the CWRB as you refine the study for the final.
  - ▶ What questions should you ask to make this decision?
  - ▶ Provided this information, when should you run CE/ICA for an ER project?
  - ▶ So what if you have a DDN project? Would it be different?



# Questions?



Florida panthers – Caloosahatchee Region

