

ASBPA PARTNERING COMMITTEE'S GUIDANCE ON INCORPORATING SURFING CONCERNS INTO PLANNING AND DESIGN OF FEDERAL SHORE PROTECTION AND NAVIGATION PROJECTS

PURPOSE

This document is intended to succinctly outline how Surfrider, SEA members and other local surfing interest groups can participate in feasibility/planning studies for U.S. Army Corps of Engineers Shore Protection and Navigation Projects.

INTRODUCTION

Various coastal engineering projects have been implemented by the federal government at project sites around the country to restore, stabilize and maintain healthy beaches for shore protection and navigation. Projects of this nature are most often authorized through a long planning and design process undertaken by the U.S. Army Corps of Engineers (Corps). The majority of such projects are initiated at the request of a non-federal sponsor who partners with the Corps in funding, planning and implementing the project. During planning, an array of alternatives is evaluated on their economic, environmental, and social impacts, resulting in a plan which addresses these concerns while maximizing national benefits. The Corps is required to follow particular guidelines during this process, but coordination between the Corps, the local sponsor, and all stakeholders are paramount to guiding the plan selection. At times, a locally preferred plan can address additional local sponsor and stakeholder concerns that may have a more regional, rather than national, benefit.

Federal projects of this nature come under scrutiny from the surfing community as they are often performed in close proximity to local surfing areas. This can lead to strong opposition in implementing the planned project. By the time the opposition arises, it is often difficult to make substantial changes to the project due to federal authorizations, approval of design documents and issuance of permits. This document will stress the importance of coordination between surfers, the local sponsor, and the Corps during project development to ensure that local concerns are addressed to the maximum extent possible. Further description of a locally preferred plan will highlight a further avenue for the local sponsor and surfers to have their voices heard in the project development phase.

PARTNERSHIPS, RIGHTS AND RESPONSIBILITIES

A professional partnership exists between the Corps and local sponsors on projects where the costs are shared between the federal government and the local sponsor. In order for a partnership to be successful, each party must understand and respect the rights and responsibilities of each other, and themselves.

The local sponsor may include the State, County, local municipality, private entity, or a combination thereof. The local sponsor has a right and a duty to take an active role in the project development. In doing so the process allows for public input and may present the opportunity to

interject local concerns in the Corps process. The key to being successful in this process is to get involved early and to be pro-active (rather than re-active) with a focus on mutual respect, integrity, cooperation, flexibility and sincerity. Surfers, as an active user group of the beach, can play an integral role in this process.

FEDERAL FUNDING PARTICIPATION

The cost of shore protection and federal navigation projects is increasing due to new design complexities, extensive studies for regulatory review, permitting requirements, and rising construction costs. Towns, municipalities, and counties are therefore looking for additional funding sources to assist with these costs. One such funding source is the federal government, which requires a long and complex planning and design process.

The result of the process is a series of authorizations, feasibility studies, economic analyses and design evaluations, which ultimately result in a decision document that defines the project to be implemented. Cost-sharing agreements are then codified through a project cooperation (partnership) agreement between the federal government and local sponsor(s).

Any changes to the project that require consideration of additional project alternatives or a change in authorization cause the process to enter a re-evaluation phase. This can delay a project significantly and is not looked at favorably by project sponsors, which can result in a conflict between project planners and those seeking modifications or other alternatives. By better understanding the timelines of federal process and documents required, surfers can enter the process early and avoid these conflicts.

PROJECT DEVELOPMENT

During its lifetime, a project passes through five basic phases: (1) reconnaissance, (2) feasibility, (3) preconstruction engineering and design, (4) construction, and (5) operation, maintenance, repair, replacement and rehabilitation.

All projects originate with a request from a local community for assistance. This initial request is the beginning of a process that could eventually result in construction of the project. The following excerpt from the Corps Project Partnership Kit (USACE IWR Report No. 96-R-10, January 2001) outlines the six steps to initiate the process:

1. The first step occurs when a local community, or some particular element of a community, perceives or experiences a water resources problem that is beyond their ability to solve. Examples of problems are major flooding, hazardous or inadequate navigation conditions in a harbor or waterway, and/or degraded environmental conditions.
2. The second step occurs when community representatives that often may be or include members of the potential sponsoring agency, meet with their local Corps district staff to discuss available forms of help, including Federal programs. If it is agreed that a reconnaissance analysis is the appropriate tool to address the identified water resources

problem(s), it will then be determined IF there is an existing and appropriate congressional study authority (a study authority authorizes the conduct of an investigation into the identified problems). IF there is an existing and appropriate study authority, the process would go directly to step five.

3. In certain cases, the Corps can provide technical assistance or relief through some other authorities without further congressional authorization (i.e., Continuing Authorities Program). The third step occurs only IF there is no existing and appropriate study authority for the Corps to investigate the problem. In this step, community representatives contact their congressional delegation to request a study authority.
4. The fourth step occurs when a member of Congress asks the Senate Committee on Environment and Public Works, Subcommittee on Transportation and Infrastructure, or the House of Representatives Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, for an authority for the Corps to study the problem. The subcommittee(s) then sends a Docket Letter to the Corps requesting information about the study area, problems, and potential solutions. If the Corps has previously investigated and reported on water resource problems in the area, the committee may adopt a study resolution to provide the necessary authority to take another look at the area and review the earlier study. If the Corps has not previously investigated problems in the area, legislation containing a study authority is usually required. Your local Corps district staff can show you examples of previous study authorities.
5. The fifth step occurs once a congressional study authority is available. The study will be assigned to the local Corps district. The district may then, through the normal Federal budget process, ask for money to conduct the first phase of the study, called the reconnaissance phase.
6. The last step occurs when Federal funds to conduct the reconnaissance study are included in an annual Energy and Water Development Appropriations Act. The local district may then begin the Corps study of the community's water resource problems.

Development Phases

The reconnaissance phase is the first step in the project development process (Figure 1). The reconnaissance phase is paid for by the Corps and no sponsor funds are required. Reconnaissance phase reports, called "905(b) analyses," are based on the authority provided in Section 905(b) of the Water Resources Development Act of 1986. The primary purpose of the reconnaissance phase is to determine if there is Federal interest in proceeding with the second, or feasibility phase. Determination of Federal interest is based largely on potential benefits exceeding costs to the nation if a project is implemented. An example of this would be providing protection to coastal infrastructure prior to damage by coastal storms rather than having to respond and rebuild after damage and a need for national assistance. The reconnaissance phase is a low budget portion, limited to 1 year and \$100,000 expense. The local sponsor can help in the reconnaissance phase by providing information and expressing opinions needed to define the problem, and identify and evaluate solutions. It is at this juncture that it is **absolutely critical** for surfing concerns to be identified and made known for inclusion in the feasibility phase.

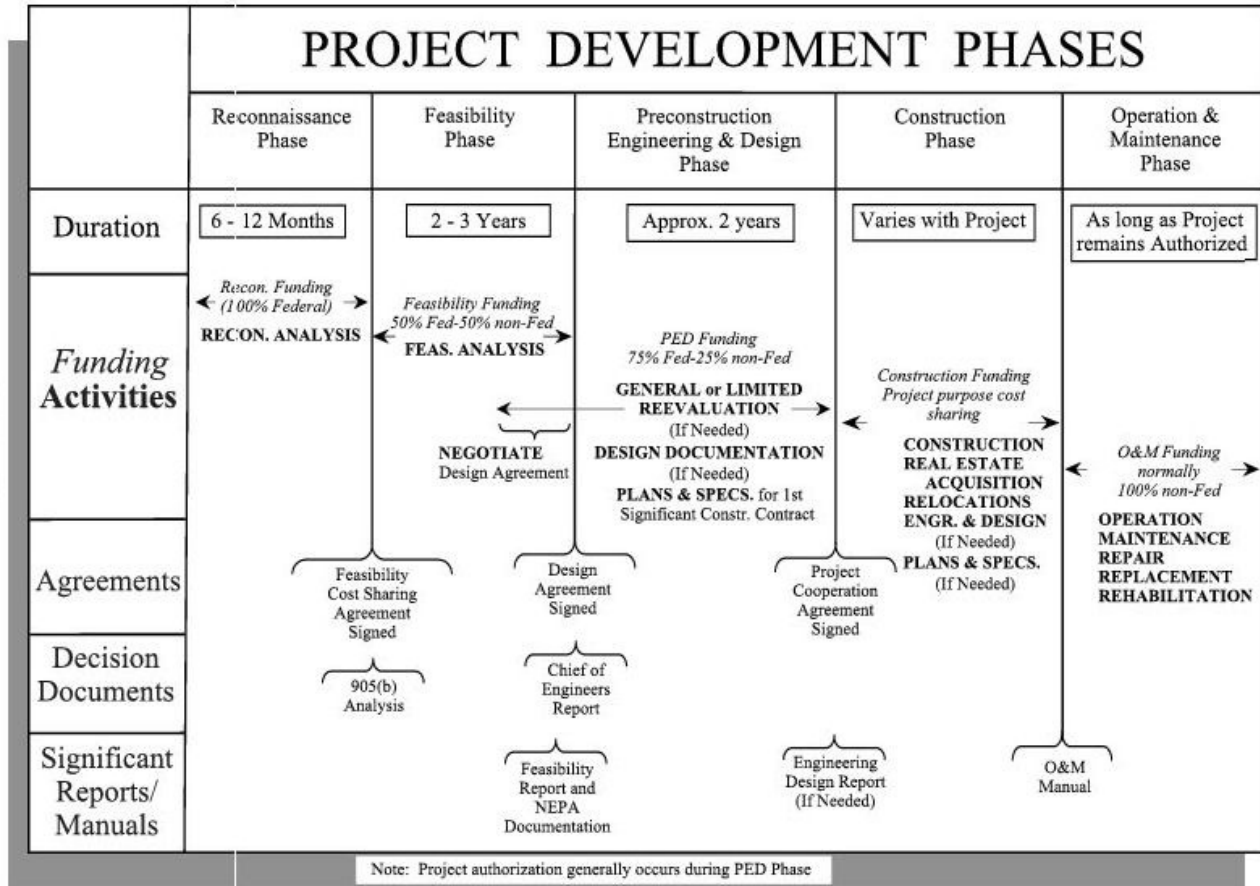


Figure 1. Project Development Phases (USACE IWR Report No. 96-R-10, January 2001).

Project Documentation

A variety of different types of documents are prepared during the development of a Corps project, and the local sponsor is involved with many of them. Some documents are reports about work that was done, some are agreements concerning responsibilities, and some serve other important purposes. Most of the documents required for every project are summarized below (USACE IWR Report No. 96-R-10, January 2001):

Reconnaissance Phase:

- Study Authority
- Section 905(b) Analysis
- Feasibility Cost Sharing Agreement
- Management Plan
- Letter of Intent

Feasibility Phase:

- Feasibility Report
- Environmental Impact Statement (or Environmental Assessment)
- Management Plan (update as needed)

Preconstruction Engineering and Design Phase:

- Management Plan (update as needed)
- Certificate of Lobbying
- Disclosure of Lobbying Activities
- Authority (Project Construction)
- Decision Document (typically a feasibility report)
- Design Agreement
- Design Documentation Report
- Financing Plan
- Statement of Financial Capability
- Project Cooperation Agreement
- Escrow Agreement
- Letter of Credit

Construction Phase:

- Management Plan (update as needed)
- Construction Contract Documents
- Operation and Maintenance Manual
- Physical Closeout Documents
- Fiscal Closeout Documents

Operations and Maintenance Phase:

- Management Plan (update as needed)
- Operation and Maintenance Manual (revise as needed)

These are some of the generally standardized reports, agreements and other documents that are likely to be used over the life of a project. The list presents the documents in the appropriate project phase or type of activity as defined in the Corps Project Partnership Kit. Not all of these documents are used in all cases, and the order of when they are needed may vary for any given study or project. However, it is to be noted that this process occurs over the course of at least 5 years prior to the construction phase (Figure 1) and any input or concerns from the surfing community need to be addressed early in the reconnaissance or feasibility phases.

The feasibility phase is the most important portion of the planning process, as this is where the project is really shaped and the outcome can be influenced with surfing related input. Surfing typically falls into “environmental resource” and “local constraints”, so any consideration of impacts to surfing will need to be included in these portions of the analysis. It is imperative to impress upon the Corps via the local sponsor that surfing resources are highly valued in your community and that impacts need to be minimized.

Federal Authorization

The Federal authorization process requires that the project have the greatest net economic benefit and follow the National Economic Development (NED) plan. To follow this, the project must have a benefit to cost ratio (BCR) greater than 1, though the NED plan does not have to have the highest BCR or the lowest cost. Corps policy requires that at least 50 percent of the cost of the project be covered by storm damage reduction benefits. An equal amount of recreation benefits can be used for project justification as long as the recreation benefits are incidental. In other

words, there can be no separable construction costs that are required to realize the recreational benefits (ER1165-2-130, p5). Environmental costs are not part of this calculation, only actual design and construction costs. Such separable construction costs can be addressed in a Locally Preferred Plan.

Recreational benefits from surfing are quantified in the same way as all other benefits from beach user groups, by the demand for public use of a beach area. However, concerns specific to surfing are not currently quantified within monetary portion of the recreational benefits. Surfing and impacts to surfing are typically considered as part of the environment and typically addressed through the impacts analysis in the Environmental Impact Statement. While there are attempts being made by groups such as ASBPA to alter the policy with regard to recreational benefits, the current planning guidelines for federal authorization do not factor surfing into the benefits analysis beyond inclusion in the beach user demand. However, consideration of effects on surfing resources can help to guide the planning process if coordination between the local sponsor, surfing groups, and the Corps begins early. Surfing specific considerations can be further considered in the project development phase through development of a locally preferred plan requiring collaboration between surf groups and the local sponsor.

It is ideal to have all (or some) surfing related concerns contained within the NED plan. If the NED plan is not the recommended plan, due to high environmental impacts or local concerns, then there is an option for a Locally Preferred Plan.

Locally Preferred Plan

Section 221 of the 1970 Flood Control Act defines a “local sponsor” for a Corps water resources project as a non-Federal interest that is "a legally constituted public body with full authority and capability to perform the terms of its agreements and to pay damages, if necessary, in the event of failure to perform". A local (non-federal) sponsor has the legal and financial capability to provide the cash and real estate requirements needed for a project. On beach related projects, the local sponsor is typically a state, county, city, or port authority. A non-profit entity can serve as a local sponsor with the consent of the affected local government. Stakeholders who coordinate local interests with the non-federal sponsor and Corps are environmental groups, community and citizen groups, developers, and others. Resource agencies such as U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, NOAA Fisheries, and others also collaborate on plan selection. The people involved can represent local, state, and Federal government agencies, homeowner's associations, sporting clubs, industrial plants and businesses, and others such as surfers. These groups and individuals provide a wide range of professional opinions, political positions, and personal views, which can result in some conflict among participants. It is important to be proactive in this process and understanding of other stakeholder’s needs and concerns to avoid reactions that could result in conflicts.

The Corps is required to recommend the NED plan unless there are reasons to not recommend it, which could be many (cost, environmental, etc), in which case the Corps can consider a locally preferred plan (LPP) where the local sponsor would fund project features with costs in addition to the NED plan. While surfing related considerations can help to guide plan selection, the LPP is a local sponsor preferred alternative to the NED plan, which is where surfing specific considerations with additional costs could be included if they were not incorporated into the

NED plan. The selection of an alternative other than the NED Plan must be fully documented and the incremental cost to implement the LPP (if any) must be paid for by the local sponsor.

Project Formulation Steps

The major steps to be followed in formulating a project are described in the Corps Project Partnership Kit (USACE IWR Report No. 96-R-10, January 2001), which are provided below:

- Specify the problems and opportunities which are relevant to the planning setting, and are associated with the Federal objective and specific state, tribe, and local concerns.
- Inventory, forecast, and analyze conditions in the area that are relevant to the identified problems and opportunities.
- Formulate alternative plans that would resolve the identified problems and realize the identified opportunities.
- Evaluate the economic, environmental, and other effects, both beneficial and adverse, of each alternative plan.
- Compare alternative plans and their effects.
- Select a recommended plan.

The Corps recommends and encourages that the local sponsor and all stakeholders take a very active role in the feasibility phase work as a variety of solutions are investigated during this time and the project takes shape. They specifically encourage participation as a member of the study team and the Study Executive Committee, which oversees study costs, schedules and other aspects of work progress. Decisions made during this phase, including selection of the recommended project, are based in part on the views of the local sponsor and stakeholders, and determine what takes place during the rest of the project's life.

It is critical that the surfing community take action early in this process to engage local government officials. In particular, a positive relationship should be developed with whoever will be representing the local sponsor as described above in order to ensure surfing concerns will be addressed. Lastly, the recommended plan can be influenced by elected officials who will be listening to their local constituents, so it is important to maintain good relations on all fronts.

RECOMMENDATIONS

The following recommendations are provided as guidance on how surfing interest groups can participate in feasibility/planning studies for U.S. Army Corps of Engineers Shore Protection and Navigation Projects:

1. Address surfing considerations and coordinate their inclusion in the planning process. Surfing specific components with costs in addition to the National Economic Development plan can be incorporated as a component in project design through inclusion in the NED plan or development of a Locally Preferred Plan.
2. Get involved early in the process by providing information during the reconnaissance phase and input for the feasibility analysis.
3. Be involved with the Corps Project Manager on a continual and consistent basis, and keep in touch with your local sponsor for the project.
4. Be proactive during the process and understanding of other stakeholder concerns to avoid reactions that could result in conflicts.
5. Become part of the stakeholder's team that receive all key documents and notices.
6. Understand the key points in the process that are optimal for surfing-related public input.
7. Be prepared for a long process.
8. Conduct yourself in a professional manner.

REFERENCES

U.S. Army Corps of Engineers, IWR Report No. 96-R-10, Project Partnership Kit, prepared by Paul R. Blakey, Planning and Policy Division, and Richard W. Whittington, Institute for Water Resources, Revision B, January 2001.

U.S. Army Corps of Engineers, ER 1165-2-130, Water Resources Policies and Authorities Federal Participation in Shore Protection, Department Of The Army, Office of the Chief of Engineers, Washington, DC 20314-1000, Regulation No. 1165-2-130, June 1989.

These last two sections are good reference straight from a Feasibility Report.

4.1 National Objective

Federal and Federally-assisted water and related planning activities attempt to achieve increases in National Economic Development (NED), while preserving environmental resources consistent with established laws and policies. Contributions to NED are increases in the net value of the national output of goods and services, expressed in monetary units. The NED objective is differentiated from Regional Economic Development (RED) benefits, which only apply to a given region, often at the expense of another region in the U.S. NED benefits accrue nationally for a net gain in Gross Domestic Product. They represent return on the investment of Federal funds, and are a useful tool in comparing the efficiency and effectiveness of alternative projects on a nationwide basis. Plans are formulated to take advantage of opportunities in ways that contribute to the NED objective. In accordance with ER 1105-2-100, it is Corps policy to provide Federal assistance in the prevention or reduction of damages caused by wind and tidal generated waves and currents along the Nation's shoreline. The standard period of analysis is based on a 50 year functional project life. Damages (which may be financial costs or actual structural/infrastructure damages) and lost opportunities (recreational, etc.) are projected for the future without project and for the future with an array of different alternatives. The benefits of each alternative are expressed in dollar amounts of damages prevented and opportunities preserved or created.

4.4 Planning Constraints

Unlike planning objectives that represent desired positive changes, planning constraints represent restrictions that should not be violated. The constraints identified include those public concerns that if violated by an alternative plan would result in the plan not being acceptable to most public interests. It also includes those aspects of the study area generally regulated by government agencies that if adversely impacted would result in the plan being unacceptable. In general, the planning process needs to consider measures to avoid or mitigate any significant adverse impacts associated with the planning constraints. The planning constraints identified in this study should follow the general guidelines listed below.

Engineering and Physical Constraints. The recommended plan presented should be complete and sound, and in sufficient detail to allow development of engineering plans and specifications.

Economic Constraints. Any potential project that is in the Federal interest must display feasibility by satisfying benefit-cost (B/C) criteria. Generally, this ratio must be greater than one to allow Federal participation in continued study and any project proposal. For Environmental Restoration projects, an incremental analysis must be performed to compare cost effectiveness of the alternatives.

Financial Constraints. The sponsoring agency is required to show their ability and willingness to fund their share of any recommended project as required by the Principals and Guidelines.

Environmental Resource and Agency Constraints. Applicable environmental requirements must be met for a feasibility level study. Environmental acceptability must be ascertained; adverse impacts should be avoided if possible or minimized, if avoidance is not possible. An Environmental Impact Statement (EIS) is included with this Report.

Local Constraints (Public Acceptability). The alternative options and plans should be acceptable to the local residents, agencies, organization, and the non-Federal sponsor(s), as well as the interested State and Federal agencies. The local sponsor has indicated that they are severely constrained by public opinion and cannot support any recommendation that meets with severe public opposition. Unacceptable plans include any visible offshore structure and any structure that significantly impedes beach access, such as rock revetments.