

So Many Rules and Regulations! What's an Environmental Restoration Project to do?

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Environmental Restoration

- Restore an area to its previously existing natural conditions – or as close as possible to those conditions
- Often requires some type of construction:
 - Earth moving (including dredge and fill)
 - Installation of conveyance features
- Usually involves some type of operation – often addressing water quality, quantity, timing and/or distribution

Federal Requirements

- National Environmental Policy Act (NEPA)
- Clean Water Act (CWA)
- Endangered Species Act (ESA)
- Rivers and Harbors Act
- Coastal Zone Management Act (CZMA)
- Fish and Wildlife Coordination Act
- Magnuson-Stevens Fishery Conservation and Management Act
- National Historic Preservation Act

State Requirements – VARY BY STATE

- Using Florida as an Example:
 - Comprehensive Everglades Restoration Plan Regulation Act (CERPRA)
 - The Everglades Forever Act (EFA)
 - Northern Everglades and Estuaries Protection Plan Act (NEEPPA)
 - Environmental Resource Permitting (ERP)
 - Consumptive use authorizations
 - Water Reservations for the natural system
 - Federal Programs delegated to the State (e.g. NPDES)

Other Rules and Regulations

- City
- County
- Water Management Districts
- Other agencies (local/state/federal)

How to Simplify

- Actions by Regulatory Agencies
- Actions by Applicants

Regulatory Agencies

- Be involved early in the planning process.
- Assist applicant in understanding the application.
- Work with the applicant to make sure the initial application includes required information.
- Examine existing regulatory structure to identify where efforts may be consolidated.
- Support legislative actions that can simplify the requirements.
- Value the opinion of the Resource Agencies as they are often the experts in a field.

Regulatory Agencies

- Example – Florida Legislature enacted the CERPRA and NEEPPA:
 - Provides for consolidation of regulatory mechanisms (except for federally delegated programs and state programs outside of the water resource scope)
- Advantages
 - Assists regulatory agency – only one application. (reduction in administrative procedures, one point of contact within agency)
 - Assists applicant – one application, one point of contact. (simplifies identifying permits needed)

Applicants/Restoration Leads

- COMMUNICATE! COMMUNICATE! COMMUNICATE!
- Meet with Regulatory Agencies early in the planning process.
 - Assists in determining planning activities that match with information being requested
 - Identifies the authorizations needed and areas of concern
 - Avoids expensive design and monitoring modifications later on in the project
 - Establishes working relationships
- Know your rights and responsibilities.
- Accurate and timely information is key.

Examples

- Cost – benefit analysis done for Federal projects often identifies:
 - The costs, besides monetary –
 - Acres of impact (temporary vs. non-recoverable)
 - Effects on threatened and endangered species
 - Impacts (beneficial/adverse, temporary/permanent) on water quality
 - The benefits (often not monetary)
 - Habitat units or acres restored
 - Benefits to threatened, endangered and ecosystem dependant species
 - Hydrologic improvements
 - Water Quality improvements

Examples

- Picayune Strand
 - Using existing information from surrounding areas or similar environments
 - Using information from Federal planning process for State agency to obtain permits
 - Using information from Local sponsor permit and interim operations for the Federal agency permit
- Staff dedicated to a specific program
- Understandable answers

Conclusions

- Restoration activities are subject to the regulatory process.
- Collaborative efforts can save not only time, but agency resources and taxpayer dollars.
- State and Local governments often have the flexibility to undertake specific legislation and rule making to streamline permitting for restoration projects/programs.

Conclusions

- Regulatory is one of the most complex and controversial missions. Work with Regulators to get to a decision.
- Regulatory staff with a working knowledge of rules and regulations AND a willingness to take time to work with the applicant can often find ways to work the regulatory process in with the planning process.

Remember, by working together,
much CAN be accomplished!

Questions?