



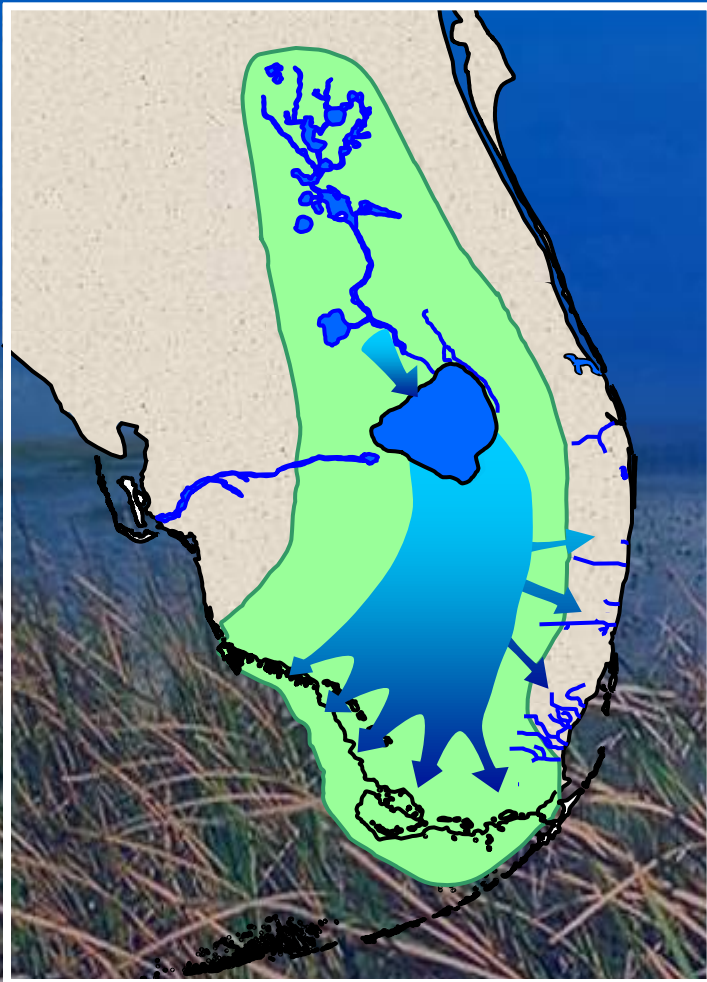
Florida Everglades Restoration:

A Construct for Long Term
Restoration Programs



The "Original" Everglades Ecosystem

"River of Grass"



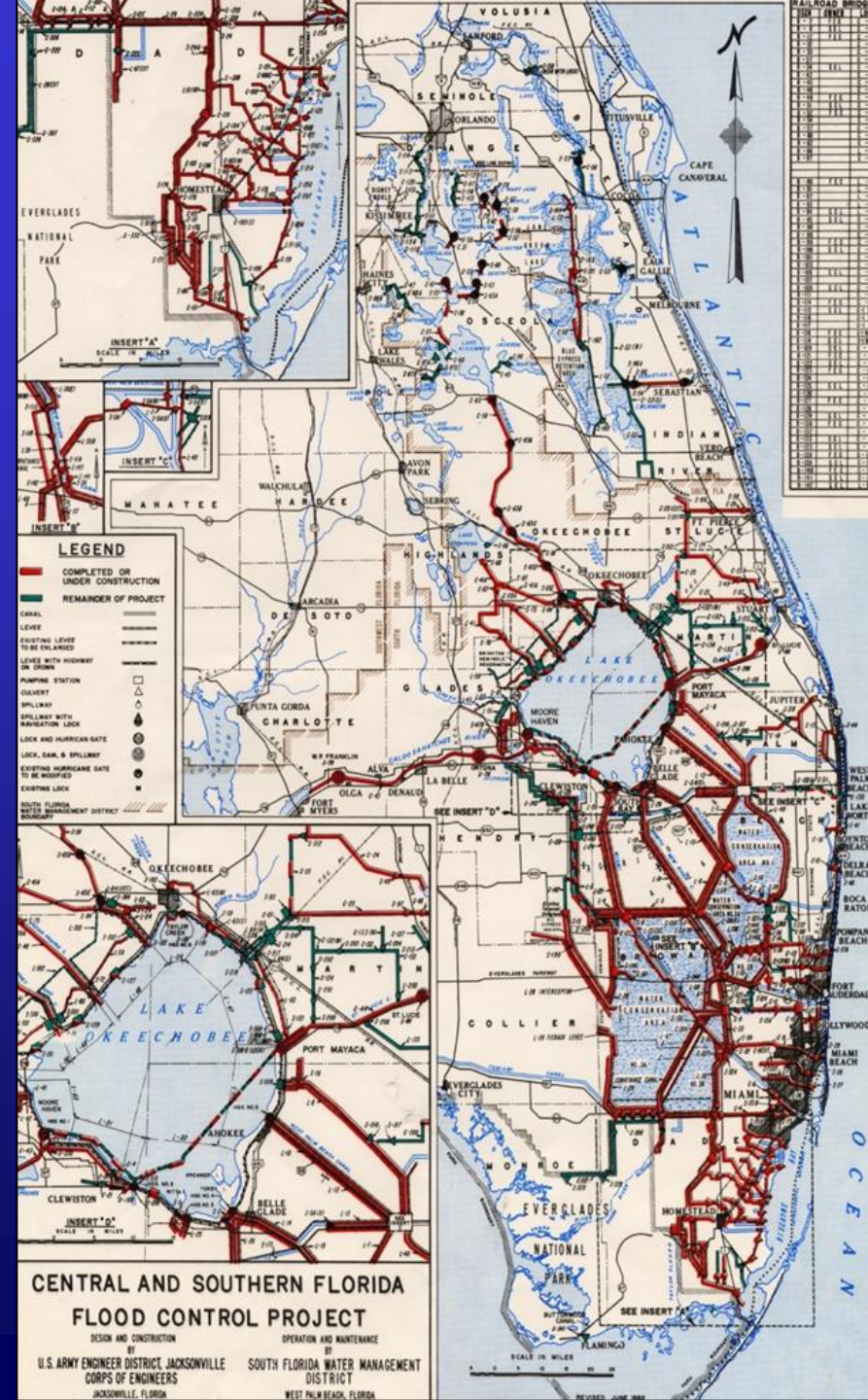
- Water connected the system, from top to bottom
- 9 million acres of wetlands providing a variety of habitat
- Diverse mosaic of landscapes and seascapes

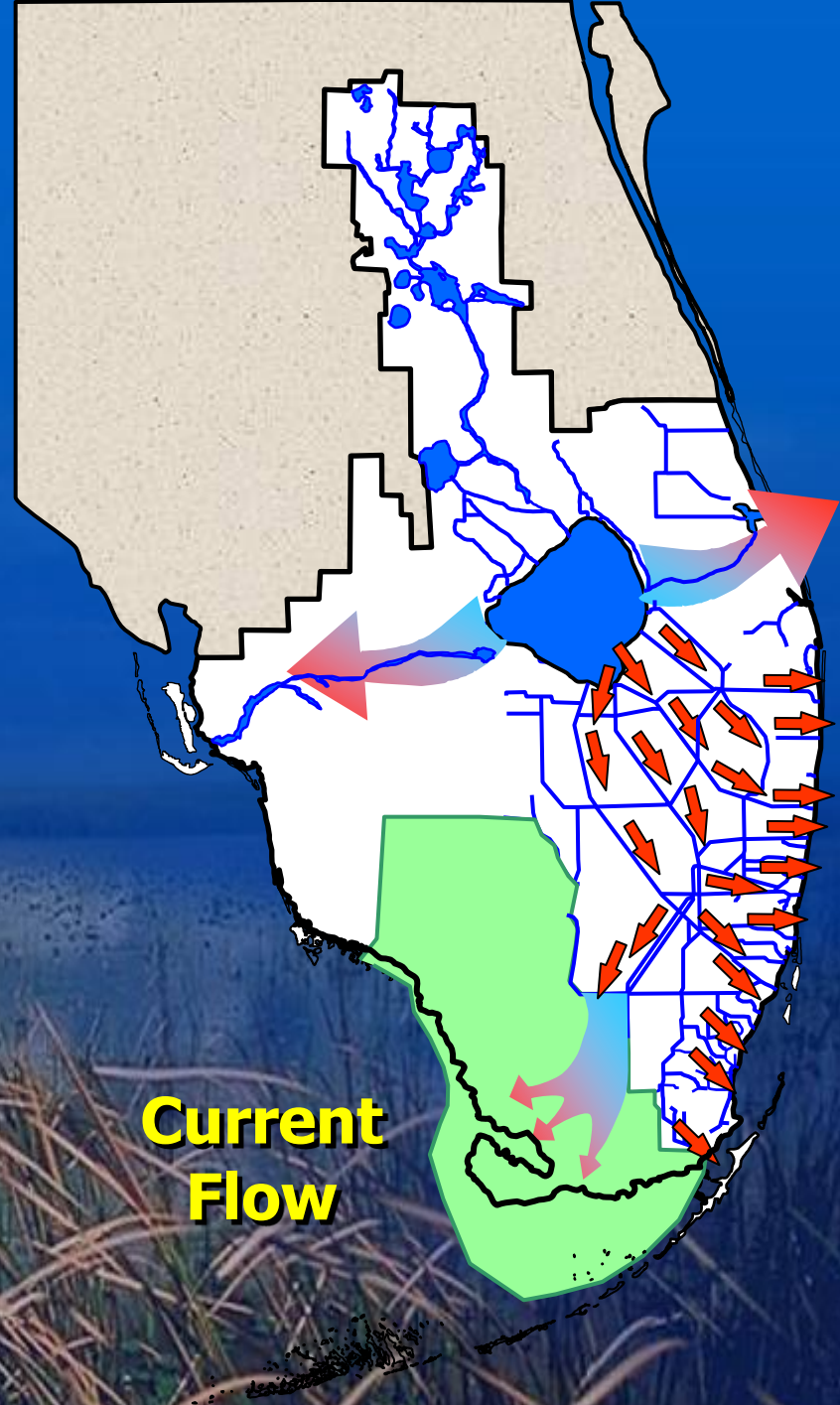
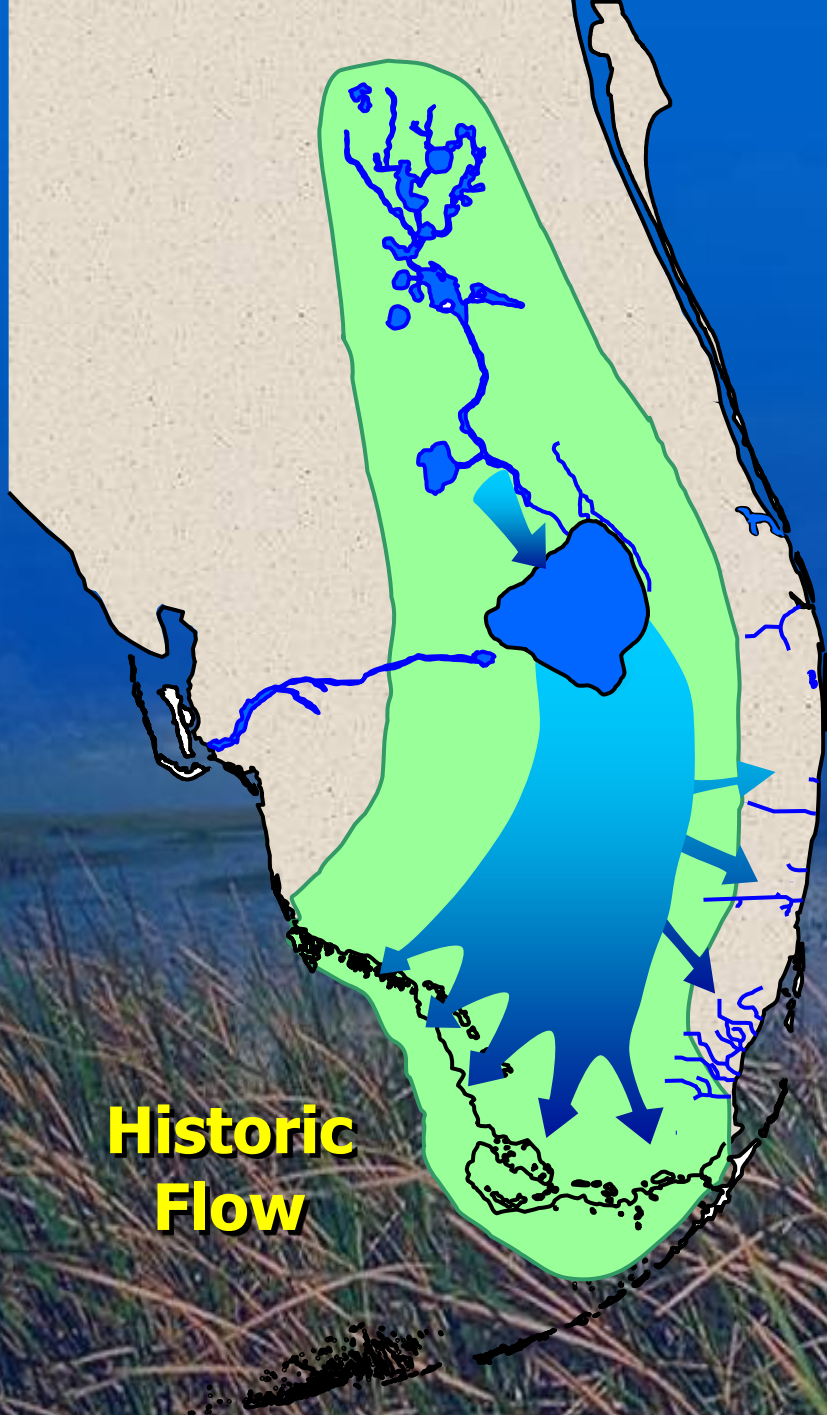


1947 Flood

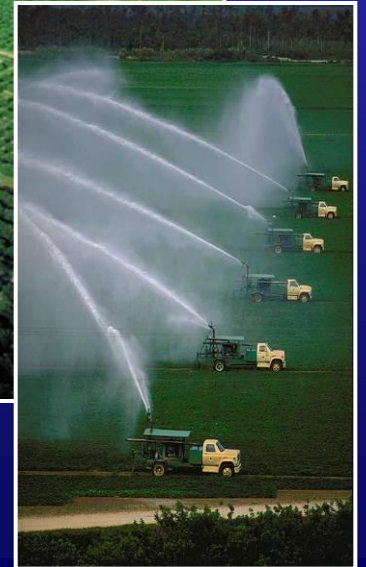
Central & Southern Florida Project

- Authorized by Congress - 1948
- Project Purposes:
Flood control, water conservation and control, regional water supply, prevention of salt water intrusion, fish and wildlife conservation, and water supply to Everglades National Park
- Project includes:
10 locks, 1,000 miles of canals, 720 miles of levees, over 150 water control structures, and 16 pump stations





South Florida Flourished



However, the Ecosystem is in Trouble....

- Too much/too little water for the Everglades/south Florida ecosystem
- Massive reductions in wading bird populations
- Degradation of water quality
- Repetitive water shortages and salt water intrusion
- Declining estuary health
- 1.7 billion gallons of water a day to tide



Series of Congressional Actions

- Kissimmee River
- A Plan
- Critical Projects

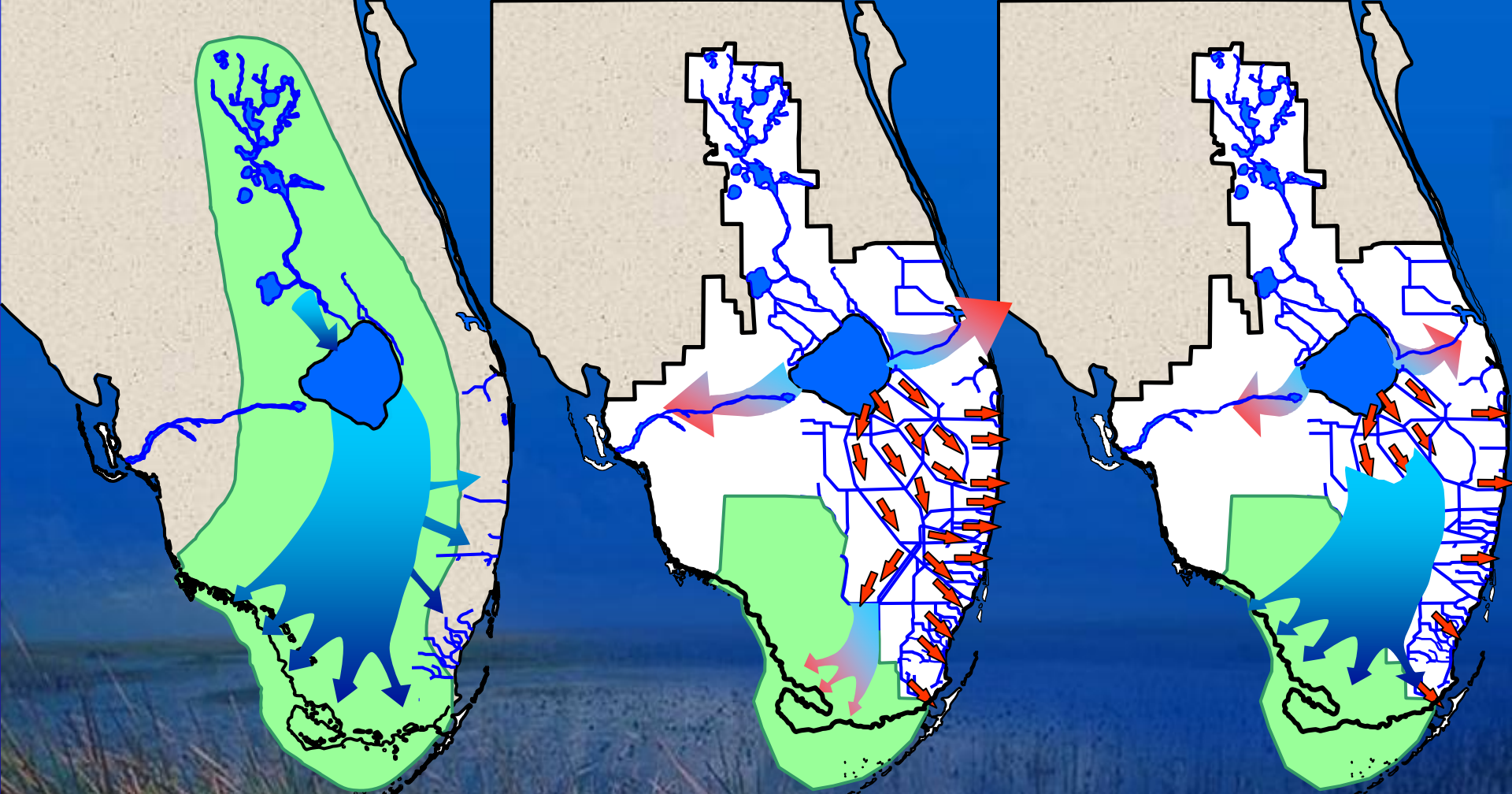
***Rescuing an Endangered Ecosystem:
The Plan to Restore America's Everglades***



*The Central and Southern Florida Project
Comprehensive Review Study
(The Restudy)*

On December 11, 2000, the President signed the Water Resources Development Act of 2000, approving:

**Comprehensive
Everglades
Restoration
Plan**



**Historic
Flow**

**Current
Flow**

**Future
Flow**

The Goal

CERP is . . .

- **A 50-50 Cost Share between the federal government and the State of Florida (Construction, Operation and Maintenance)**
- **68 Components combined into 56 projects**
- **To be implemented over a 40-year period**
- **Expensive (~ \$ 12.5 B - October 2008)**
- **Unique authority with specific flexibilities and constraints**

Unique Statutory Provisions

- In-Kind Credit
- Modified Economic Justification
- Savings Clause
- Adaptive Management

In-Kind Credit

“The Secretary may provide credit, including in-kind credit, toward the Non-Federal share for the reasonable cost of any work preformed in connection with a study, preconstruction engineering and design, or construction that is necessary for the implementation of the Plan...”

- Work must be defined in an agreement before work is conducted
- Work must be “Integral”
 - Work the Federal Government would have otherwise provided or preformed for the project

Timing

But we have dozens of projects!

- “Treatment of credit between projects– any credit provided under this paragraph may be carried over between *authorized projects...*”

Challenges

Will dozens of projects be funded? What about sending the Federal Government a bill at the end?

Monitor & Manage

“To ensure that contributions of the non-Federal sponsor equal 50 percent proportionate share for projects in the Plan, during each 5- year period...[the Government shall]..Monitor the Non-Federal provision of cash, in-kind services and landand Manage to the maximum extent practicable the requirements of the Non-Federal Sponsor to provide cash”

Balance and Communication

Modified Economic Justification

- “Justified by the environmental benefits” AND “no further economic justification for the activity is required, if the Secretary determines the activity is cost effective”

Savings Clause

- No Elimination or transfer until a new source of water supply of comparable quantity and quality
- Maintenance of the service of Flood Protection

The Dilemma of Discretion

- Broad discretion in an authority may need to be refined
 - To be consistent with processes
 - To be consistent with driving policy rationales that are still applicable
 - To be transparent
 - To control costs
 - To control Non Federal sponsor expectations

Caution: Balancing how much discretion to maintain and knowing when to refine again

Adaptive Management

- A Plan that spans over 40 years?!?!?
- Congress acknowledged that there needs to be a process for integrating new science, technical information and adapting to unforeseen circumstances

Let's Change !!!

- Attorneys hate change.

Authority

- For CERP a certain amount of change was expected
 - Reorganize Projects in the Plan
 - Reprioritize Projects in the Plan
 - Modify current operations of the Plan
- Path back to Congress and the planning process
 - Modify components
 - Add or delete components

Authority

- What about change AFTER Congress authorizes a Federal project?
 - Chief's Discretionary Authority
 - Limited
 - Documentation

Authority

- How do I know if it is within or outside the discretionary authority?
 - Involve attorney
 - Look at the original project documentation
 - Maps
 - Summaries
 - Report
 - Letters/Recommendations to Congress
 - Any Existing Agreements

What about NEPA

- NEPA Is Procedural in Nature
 - Work with an attorney early
 - Identify the change
 - Identify what was covered by the previous NEPA document
 - How much will the change impact the environment
 - Optics – Save time now or save time later??
 - Document, document, document

Building Relationships

- Help orientate attorneys early.
- Be patient with us, we have to understand the facts in order to provide advice
- Advice is based on facts, if the facts change, communicate!
- Create an open question – How can I accomplish a certain goal versus can I do a specific task. Avoids feelings of pressure, creates opportunities for shared idea building, allows early redirection for legally deficient or risky paths.