

Introduction

American Rivers, in partnership with the National Wildlife Federation, created this Citizen's Guide as a resource for individuals and organizations working to improve the way the U.S. Army Corps of Engineers (Corps) plans, constructs, operates, and issues permits for projects affecting the nation's rivers, coasts, and wetlands. The guide provides a detailed overview of the Corps and of the laws, policies, and strategies that can be used to stop or improve destructive projects and permits and to promote restoration and protection of our vital water resources.

I. The Corps of Engineers

The Corps is the primary federal manager of the nation's water resources. The Corps builds and maintains much of the nation's navigation and flood damage reduction infrastructure and regulates the issuance of Clean Water Act dredge and fill and other permits to the private sector. Since its formation more than 225 years ago, the Corps has significantly transformed our nation's rivers and coasts, constructing 11,000 miles of inland waterway navigation channels, 8,500 miles of levees and seawalls, and more than 600 dams. The agency also dredges hundreds of millions of cubic yards of material each year from the nation's rivers and harbors. Since 1990, when Congress added environmental protection to the Corps' mission areas, the Corps' civil works portfolio has grown to include some of the nation's largest and most controversial restoration projects.

While Corps projects have produced some positive economic benefits for the nation, they have also caused significant environmental harm. The environmental damage has been so great that Corps projects are recognized as one of the leading reasons that North America's freshwater species are disappearing five times faster than land based species and as quickly as rainforest species. Large-scale structural projects planned and constructed by the Corps have also increased flood risks for many communities, reduced water quality, impaired recreational opportunities, and damaged economies that rely on a healthy environment.

As the nation saw all too clearly when Hurricane Katrina slammed into the Gulf Coast in 2005, at its worst, flawed Corps planning can have deadly consequences. Corps projects destroyed coastal wetlands that would have buffered Katrina's storm surge, funneled and intensified that surge into New Orleans, and encouraged development in high-risk areas. With this stage set, the Corps sealed the city's fate when it used flawed designs to

build the levee and floodwall system that was supposed to protect the city — but clearly did not. Ongoing operation of Corps projects can also lead to devastating results. A U.S. District Court recently ruled that the Corps’ “gross negligence” in maintaining the Mississippi River Gulf Outlet, a Corps-built navigation channel, also played a major role in the breaching of many New Orleans area levees during Hurricane Katrina.

During the past decade, the National Academy of Sciences, the Government Accountability Office, the Army Inspector General, federal agencies, and independent experts have issued a flood of studies highlighting a pattern of stunning flaws in Corps project planning and urging substantial changes to the Corps’ planning process. Two National Academy of Sciences panels and the Department of the Army Inspector General concluded that the Corps has an institutional bias for approving large and environmentally damaging structural projects, and that its planning process lacks adequate environmental safeguards. Less environmentally damaging, less costly, nonstructural measures that would result in the same or better outcomes are routinely ignored or given short shrift. This results in projects that are unnecessarily destructive, costly, and, in many cases, simply not needed.

In 2006, the Government Accountability Office told Congress that recent Corps studies were “fraught with errors, mistakes, and miscalculations, and used invalid assumptions and outdated data.” The problems were so pervasive that the studies “did not provide a reasonable basis for decision-making.” The Government Accountability Office also told Congress that the problems at the Corps were “systemic in nature” and “prevalent throughout the Corps’ Civil Works portfolio.”

In 2007, Congress enacted important Corps Reform legislation designed to address some of these problems. These reforms, which require modernization of the Corps’ planning guidelines, impose strict mitigation requirements on Corps projects and require outside independent peer review of costly or controversial Corps projects are discussed at length in Chapter 2. Ensuring strict compliance with the Corps Reform provisions and with the environmental protection laws and policies discussed in Chapters 3 and 6 will do much to improve Corps projects and permits.

As communities and wildlife suffer the floods, droughts, storms, and increasing sea levels fueled by climate change, it is more important than ever to improve Corps projects and permitting decisions. The Corps must begin immediately to aggressively protect and restore the nation’s rivers, wetlands, and coastlines — resources that provide the first line of defense against flooding, improve water quality, recharge groundwater, provide outstanding recreational opportunities, provide vital habitat for fish and wildlife, and are essential for making our communities more resilient to the effects of climate change.

II. Using the Citizen's Guide To Help Make A Difference

Public participation in the Corps' planning process is required by law, and informed and persistent public participation is a powerful agent for change. To assist individuals and organizations in that process, this Guide provides a roadmap to the laws and policies that are supposed to guide Corps projects and permit decisions, an overview of the Corps' history and organization, the role of Congress in Corps projects, and key strategies for effective advocacy. The Guide focuses particularly on avenues and strategies that will allow individuals and organizations to improve Corps planning, projects, and permit decisions.

We have attempted to organize this Guide in a way that will allow the reader to easily identify the tools and strategies that will be most effective for influencing a decision on a particular project or permit. The Guide also provides more detailed information on each tool so that the reader can begin effectively implementing the strategies selected. Additional consultation with legal and policy experts, and with activists who have fought similar battles with the Corps, is also recommended. A good starting point for such expertise is the Corps Reform Network, a coalition of nearly 200 grassroots, regional, and national organizations dedicated to ensuring that Corps projects are environmentally and economically sound. The Corps Reform Network advocates for improvements in Corps policies and practices, provides technical and policy assistance to its member groups, and provides a forum to discuss and share information and strategies for improving Corps projects. More information on the Corps Reform Network can be found at www.corpsreform.org.

III. Chapter Summaries

Chapter 1: Inside The Corps — The Corps' History and Structure

The Corps carries out its civil works and regulatory activities through a daunting array of directorates, divisions, districts, and research and planning centers. Chapter 1 provides an overview of the Corps' development and a guide to the agency's complicated hierarchy and structure.

Chapter 2: The Civil Works Program — Project Planning and Construction

Through its civil works program, the Corps plans and constructs water resources projects nationwide. The majority of these projects are carried out under one of the Corps' primary mission areas of navigation, flood damage reduction, and environmental restoration. Chapter 2 describes the civil works program; the Corps' project planning process; and the laws, regulations, and policies specific to the civil works program, such as requirements enacted through the Water Resources Development Acts.

Chapter 3: The Regulatory Program — Clean Water Act Section 404 Permits

The Corps' regulatory program implements Clean Water Act section 404, which regulates the discharge of dredged or fill material into the nation's waters. Through this program, the Corps is supposed to ensure that construction carried out by private parties and other governmental agencies in wetlands, streams, rivers, and coastal waters complies with the requirements of the Clean Water Act. Corps civil works projects also must comply with the requirements of section 404. Chapter 3 describes this complex program and identifies opportunities for improving Clean Water Act compliance.

Chapter 4: The Corps and Congress — Project Politics and Funding

The U.S. Congress approves and funds Corps studies, projects, and programs, and establishes key Corps policies. As a result, working effectively with Members of Congress is critical for improving the way the Corps manages the nation's rivers and wetlands. Chapter 4 describes the processes used by Congress to authorize and fund Corps activities and identifies opportunities for influencing those processes.

Chapter 5: The Players — Agencies, States, and Stakeholders

Many players can have a significant influence on Corps projects and permits, including federal agencies, presidential and congressional support offices, states, tribes, local governments, the National Academy of Sciences, and a diverse range of stakeholders. Chapter 5 provides information on the roles of these various players and suggestions for engaging them as allies in your efforts to improve Corps decisions.

Chapter 6: The Corps and the Law — Key Laws Applicable to Corps Projects

The Corps must comply with numerous laws, regulations, and policies when planning and implementing water projects and making permit decisions. Ensuring strict compliance with these laws and policies can have a profound affect on the Corps' activities. Chapter 6 summarizes environmental and other laws applicable to Corps projects and provides background on the legal process. Activists should use this Chapter as a guide only and should seek the advice of an attorney for specific legal advice and recommendations.

Chapter 7: The Corps and the Media — Strategies to Spread the Word

Whether fighting a destructive Corps project or promoting Corps reform legislation, media coverage can be a powerful tool for achieving your goals. Chapter 7 discusses key steps for developing an effective media campaign and provides practical advice for working with the media and for drafting news releases and other media tools.