

NFFA Policy & Permitting Workshop

Washington DC – Pew Charitable Trusts – November 29, 2016

Notes taken by Marla Stelk, ASWM

Welcome and Introductions from Laura Lightbody, on behalf of Pew Charitable Trusts, as well as Larry Larson (Association of State Floodplain Managers) and Jim Schwab (American Planning Association) on behalf of the Natural Floodplain Functions Alliance.

Jeanne Christie, Association of State Wetland Managers, Background Context and Agenda Review

- An overreliance on structural works in the United States had actually increased damage by flooding, rather than decreasing them
- In recent years there have been many initiatives in federal and state government to utilize natural infrastructure. Interest in this area of national and state policy continues to grow.
- Regulatory programs did not anticipate natural infrastructure projects and may include requirements that add time and expense
- However, many requirements make sense: it's a balancing act.
- Hope to identify potential actions to pursue by the end of the day.

Rob Evans, VT State Floodplain Manager Case Study

- FEMA hazard mitigation assistance program
 - Ecosystem services benefits calculator www.fema.gov/benefit-cost-analysis
 - Pre-disaster mitigation 2016
- NFIP – 50 yrs. old – not a good fit for restoration projects
- Depending on the quality of the current FEMA map LOMR is usually too expensive for a \$37k project
- Project would have only localized impact (reductions in base flood elevations) – no flood insurance implications
- Flood insurance study was done more than 40 years ago – 1976
- Developed As Built documents in lieu of full blown mapping process via LOMR (map revision process)
- Very few rivers and streams in VT have been restudied in recent years
- Could we develop something similar for large scale projects? i.e. avoid LOMR process
- Issue with planting buffer trees as well

Ted LaGrange, Nebraska Game & Parks Commission

- 98% of lands in NE are privately owned – mostly farmers and ranchers
 - Socioeconomic drivers – sometimes have to compromise – better than doing nothing
 - Must meet objectives of both land owner and agency
- Highly altered landscape due to farming and ranching practices including high capacity irrigation systems
- Almost every voluntary wetland restoration project is delayed due to delays in authorization from ACOE

- Nationwide 27 almost as difficult as an Individual Permit
- Can take a year to get permit – farmers and ranchers not willing to wait that long. Where you may have reluctant property owners this can be a very difficult obstacle to overcome and prevent the protection and/or restoration of valuable resources.
- Would like to have PCN requirement waived for projects done with state/federal agencies who have professional experienced staff

Eileen Shader, American Rivers

- Issue 1: LOMR
 - Have to “dumb down” more detailed local models to match FEMA models – takes time and money - or the model that is available has to redone at great cost to match current models
 - Permitting issues with dam removals
 - Multiple permit applications
 - Inflexibility for restoration projects - #1 issue
 - State/federal coordination
 - Costs
- Issue 2: Sediment Release
 - Short term impacts occur during construction
 - But there are also potential long term impacts if not managed well
 - NH Barrier Removal Sediment Assessment and Management Protocol Flow Chart – a good model
 - National Subcommittee on Sedimentation Protocols
 - Should be released by Bureau of Rec “soon”
- Issue 3: Loss of Wetlands
 - Formed by dams – not historically in that location
 - Mitigation required to replace acreage – but new wetlands formed are usually higher quality even if lower acreage
 - In MA restoration of river can be used as mitigation for wetland losses after dam removal
 - Clarification needed by ACOE

Federal Panel: Cindy Barger, Jennifer Moyer, Nicole LaRosa, Maria Honeycutt, Rick Sacbibit

Jennifer Moyer, USACE:

- 3 regulatory authorities:
 1. Section 404
 2. Section 10 of rivers and harbor act of 1899
 3. Section 103 of marine protection and sanctuaries act
- About 3500---4000 individual permits per year
- About 55,000 general permits per year
- “Corps regulatory is not a land use planning program” – in a reactive mode to permits received
- Focused on enhancement of approaches – i.e. consideration of ecosystem services (mitigation rule) in compensatory mitigation decision making

- Nationwide Permit 13 – proposed changes – clarification that it can be used for vegetative stabilization – will include an educational component so more widely understood by public
- New living shorelines permit and low-head dam
- Looking at improving knowledge management = so corps regulators know requirements and follow them
- Corps need to improve communication skills and use them
- What is the ACOE watershed approach? Defined by Corps and EPA in CWA mitigation rule

Cindy Barger, Dept. of Army:

- always working in partnership with nonfederal partners
- 7 Environmental operating principals since 2002 – reinvigorated in 2012
- Smart planning program – focusing analysis down to what is needed for a particular decision – instead of doing all analyses available
 - Down side is some projects not able to consider more creative techniques and multi-purpose projects
 - Some large projects get ratcheted down to accommodate less time and cost – trying to work through these problems
- 3x3x3 rule – WRDA – integrating vertical team in decision making process
- Have to rationalize if there is a net benefit at a level of “national significance” – kind of squishy and hard to communicate – “you have to see it to know it”
- Limited budget for ecosystem restoration – about \$4 m for construction – most goes to large existing programs – i.e. gulf coast, Chesapeake bay, upper miss, etc. – about a third or less available for new projects
- WRDA 86 watershed planning allows to work with other agencies to find federal/state solutions

Maria Honeycutt, NOAA:

- FFRMS – origin in president’s climate agenda plan and sandy recovery – put together framework for standard – MITFLG – EO (13690) resulted - 2 policy actions – instead of 100 year flood base elevation – now needs existing science or add 2-3 feet to 100 year base – or use 500 year – it is a resilience standard
- 2nd policy dimension – is provision that applies to all federal actions a requirement that federal agencies shall use nature based approaches - EO 11988 update – the future of 13690 is uncertain – but concepts are in original EO

Nicole LaRosa, FEMA:

- can’t talk about rulemaking but received of 70 unique comments and will continue to keep going until told to stop –
- HMA program – climate resilience mitigation actions released in 2015 and prioritized in 2016 available in hazard mitigation program – part of the HMA programs and will remain that way permanently – includes floodplain and stream restoration and NBF – also aquifer recovery program for drought
- Trying to find ways to simplify the application process – working closely with risk mapping and NOAA to identify what tools already exist that could potentially satisfy some sort of pre-award

authorization – needs to provide some sort of risk reduction – so trying to find a way to define what they are

- Program also has to be economically feasible – 1 to 1 or higher ratio. Pre-calculated benefits calculated issued. Also working to develop guidance to id NBF in floodplain to make sure compatible – some inconsistency across region on how applied so working on that – most benefits have to come from traditional risk reductions i.e. damage to persons or property

Rick Sacbibit, FEMA:

- Would cost \$40 b to modernize all flood maps – budget around \$2-3 m/yr
- Letters of map change – process about 2500 a year – FEMA cannot keep up with all changes on landscape across the country –
- LOMR/CLOMR fees – in some cases fee free
 - FEDERALLY FUNDED (50%) FLOOD CONTROL PROJECTS
 - HOMEOWNER FLOOD INS AFFORDABILITY ACT OF 2014
 - Fee exemption for restoration projects
- If letter of map revision comes to HQ they assume the maps need to be changed – otherwise you may not need it

Main themes of the day:

- Communication
- Training
- Money