

# Needs Analysis & Purpose Statements

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# The Need and Project Purpose

- What is the project need?
- Problem or opportunity identified by applicant
- Typically quantified or measured
- Supports framing of the purpose statement



# The Need and Project Purpose

- What is the project purpose?
  - ▶ How to address the problem/opportunity through the identification of purposes, goals or objectives.
  - ▶ Purpose statements can be for single or multiple purposes.
  - ▶ Normally simple, but occasionally can be complex



# Misconceptions About Need & Purpose

<b>Misconception</b>	<b>Truth</b>
Are expressed as one concept	Should be articulated individually
Are related to the purpose of the EIS/EA	Are related to the proposed action
Requires lengthy explanation of the history of the environmental setting	Should be concise, based on scientific data and focused on the action to be permitted



# Needs Analysis

- To define the project purpose, appropriate substantiation of Need is critical
- Disparity exists relative to degree in which USACE assesses needs
  - ▶ Should generally not question need in context of economics in the PI review at 33 CFR 320.4(q)
  - ▶ However, USACE can conclude that purpose is too speculative and halt review process



# Needs Analysis

- Courts have ruled that objectives (purposes) must be legitimate & legitimacy is based on evaluating need to support purpose.
  - ▶ Both NEPA & Public Interest review require it be addressed
  - ▶ Is not directly stated in 404b1 guidelines but critical to evaluation of practicability
  - ▶ Requires information be provided by applicant/participants
  - ▶ Can involve substantial effort/costs



# Needs Analysis

- Adjustable in light of level of impact, type of NEPA document, and relevance to public interest.
  - ▶ Flexibility reduced for large-scale projects
- Scoping – Agencies, as well as public, will question the need for proposal
  - ▶ Even if issue is not raised in scoping, does not relieve the Corps from considering/evaluating.



# Needs Analysis

- Examples
  - ▶ Commercial/Housing Development – market conditions
  - ▶ Highway project – safety issues/needs, congestion levels
  - ▶ Water supply project – current water sources, use patterns, demands and growth period, other
  - ▶ Energy project – potential increases in demand
- Usually looking to determine “how much” of something is needed
  - ▶ Will become critical in defining project purpose





# Defining Purpose Statements

- Applicant initially defines purpose(s)
  - ▶ May be single or multiple purposes
  - ▶ Likely includes benefits, desires
- USACE, exercising independent judgment, defines purpose in light of applicant's purpose as well as public's perspective for evaluation
  - ▶ USACE should not dismiss legitimate purpose(s) of applicant and replace with its own
    - Benefits, desires not included in Federal project purpose



# Defining Purpose Statements

- Cannot be overly narrow nor too broad
- For multi-purpose projects, do not have to accept “critical mass” definition
  - ▶ Residential/commercial/industrial all in one location
- Project Specific
  - ▶ Context/Applicant sensitive (one size does not fit all)



# Defining Purpose Statements

- Definition impacts NEPA document and permit process
  - ▶ 404b1s draw direct tie between EAs/EISs with Guidelines alternatives analysis requirements. (See 40 CFR 230.10(a)(4) and preamble)
  - ▶ Sets stage for alternatives analysis
    - Affects range of alternatives
    - Determines practicability/reasonability
  - ▶ USACE does not define alternative in purpose
    - Purpose is to build a dam vs. Purpose is to provide M&I water



# Defining Purpose Statements

- Refining/changing purpose statements can occur during formulation of permit review
  - ▶ Usually requires major reworking of document and alternatives analysis
  - ▶ Can be costly and create delays
    - USACE may not agree with applicant proposed changes based on particulars of ongoing analysis



# Defining Purpose Statements

- USACE as a Cooperating Agency
  - ▶ Strive to give substantial deference to lead agency
    - Must still comply with our regulations and policies
  - ▶ Can have differing Purpose statements in NEPA documents for lead/cooperating agency
    - May be confusing to public
- Some agencies may have legal limitations or vested interest in project & can influence purpose definition



# Defining Purpose Statements

- Examples

- ▶ Project purpose is to safely accommodate current and projected future traffic between town A and city B.
- ▶ Project purpose is to provide small-scale single family housing in the city of Timbuktu.
- ▶ Project purpose is to provide approximately 10,000 acre-feet of municipal and industrial water for the current service area of the ABC Water District.

