

ENVIRONMENTAL COMPLIANCE IN CONTRACTS

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AGENDA

- ER requirements
- Common EC issues with contracts
- Case Studies
 - Brandon Moore - Huntsville
 - Julie Carey – Tulsa / Kansas Area Office
 - Brian Wilson - Seattle
 - Ken Duncan - Portland
- Discussion



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ER 200-2-3 (2010) REQUIREMENTS

Chapter 1-1(h): *All contracts and contract modifications shall specify that contractors and grantees are **required to comply fully** with applicable Federal, state, and local environmental laws and regulations, Executive Orders, DoD and Army, regulations, policies, and guidance and that contractors and grantees are responsible for any enforcement actions, fines, penalties, and cleanup costs, to the extent provided for by law and policy, resulting from their failure to comply with applicable environmental requirements.*

Chapter 2-1 (e): *Coordination of Requirements for Contracts, Real Estate Agreements, and Permit Requests.*

- (1) **USACE proponents** for contracts, real estate actions, permits and other agreements affecting Civil Works Operations controlled lands and waters **shall coordinate all requirements and agreements with the Operations element for environmental compliance** review prior to finalization of requirements.
- (2) The **Operations element is responsible** for reviewing and approving environmental requirements for contract, real estate, and permit actions affecting lands and waters under the control of Operations. Reviews and coordination with the OPM and Operations business line personnel for environmental compliance will be documented prior to submission of the requirements to the respective Contracting, Real Estate, Regulatory, or other element for finalization within the terms of the agreement.



ER 200-2-3 (2010) REQUIREMENTS (CONTINUED)

Chapter 2-1 (e): *Coordination of Requirements for Contracts, Real Estate Agreements, and Permit Requests.*

(3) *Discharge of dredge or fill material (coordinate with Regulatory)...*

Chapter 2-1 (f): *USACE functional elements with activities affecting Civil Works Operations controlled lands and waters are responsible for the environmental compliance performance of their activities.*

Chapter 2-1 (g): *Operations element staff may verbally interact with grantees or contractors as necessary to prevent or stop activities that would result in immediate harm to the project's environmental performance. Such verbal field interactions must be documented in an internal memorandum or e-mail, and provided to the appropriate real estate or contracting officer for the official record. Any required written follow-up correspondence shall be provided under the signature of the real estate or contracting officer.*



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ER 200-2-3 (2010) REQUIREMENTS (CONTINUED)

Chapter 3-4: *ECC Roles and Responsibilities.*

(10) ECCs ensure the review of contracts, outgrants, and other agreements for appropriate coverage of environmental compliance requirements, and they provide government oversight for the execution of the environmental compliance requirements of contracts, outgrants and other agreements that affect the project(s) they support.



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COMMON ISSUES

Hazardous Waste

Toxics (PCBs, Metals,
Asbestos)

Oil Spill Response / SPCC

Pesticides

Solid Waste

Permits

Dredge/Fill

NEPA/Cultural (doing what we
said we'd do)

Green Purchasing



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LRH – BRANDON MOORE

EC Administered Contracts

- BCOES Reviews on New Contracts
- IDIQ Task Orders on Existing MATOC Contracts

OR Administered Contracts

- Standardized Contract Language
- ECC Review of Sustainability Projects, Energy Intensive, and/or potentially Environmentally Sensitive Work



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SWT-OD-K – JULIE CAREY



- **Words from the Field**

- Federal Requirements Awareness

- Awareness among current Corps employees
 - 11 new hires in 2 years
 - 5 from non-Federal entities (1 private industry)
 - » 3 GS-9 (FPL) and above

- Rural Challenges

- Anti-Government Biases
 - Limited Hiring Options
 - Limited Experience with Environmental Compliance Issues

An ounce of planning....



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NWS – BRIAN WILSON

- Currently coordinating with Contracting Office
- New development of contract action reviews by District EC&S Program Manager
- Standardized contract language
- Project ECCs review contract actions for consistency and compliance



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NWP – KEN DUNCAN

It's taken a long time but... Progress!

Specifications:

- District ECC gets all contract notifications (Initial, 30%, 60%, 90%, BCOES).
- ECCs can be included on PDTs.
- Project ECCs responsible for reviewing specifications.
- District ECC Signs as the S in BCOES*.

Construction / O&M Service:

- ECCs usually given opportunity to review submittals.
- ECCs try to solve unusual EC issues.
- Operations/ECC disposes of HW.
- Try to maintain positive relationship w/ Construction / O&M etc.



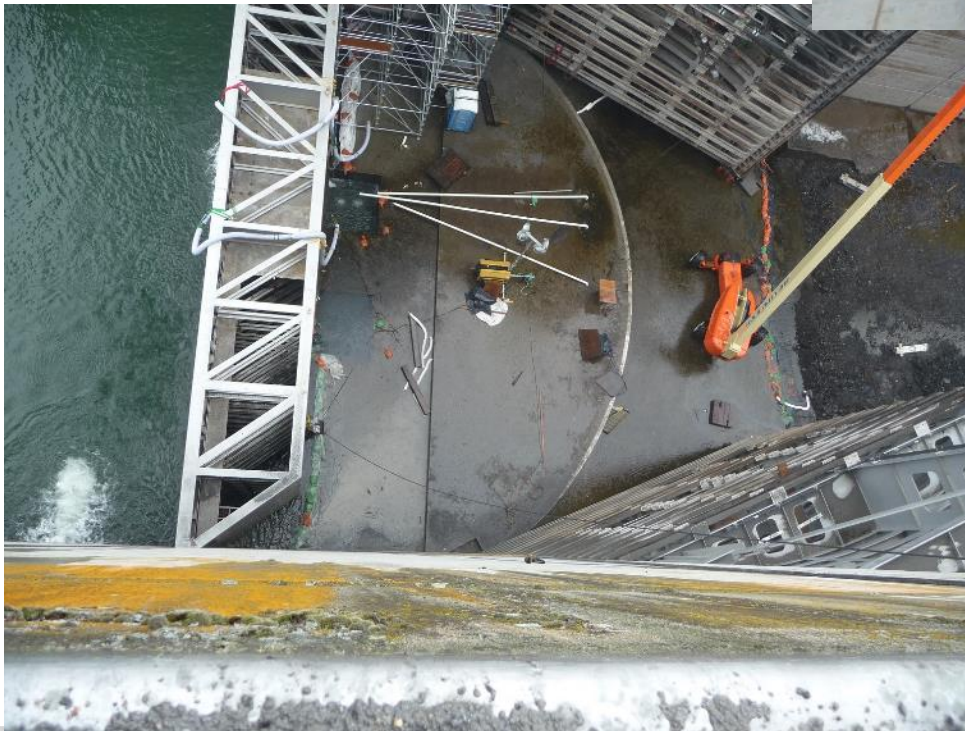
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NWP – KEN DUNCAN (CONT.)

Still Challenges:

- Construction / Contractor ignore specification.
- Time to review / attend meetings.



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DISCUSSION...



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