

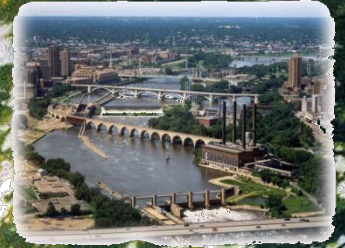
USACE Tribal Engagement and SMART Planning

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Purpose

- ▶ Identify opportunities and tools to integrate government-to-government consultation with Federally recognized tribes within the SMART Planning framework.
- ▶ Outline SMART Planning talking points for communication with Federally recognized tribes.



USACE Tribal Program

- USACE policy requires Tribal consultation be pre-decisional.
- Federally recognized Tribes are sovereign nations, not just stakeholders under NEPA or consulting parties under NHPA.
- Federally recognized Tribes are interested in more than just cultural resources. Their interests include natural resources (including water resources) on both Tribal and ancestral lands.
- Most USACE studies intersects Tribal resources in some way.
- Tribes are increasingly becoming important customers and sponsors in our projects and programs.



Corps Tribal Program is Growing

- In 1996, the Office of the Assistant Secretary of the Army for Civil Works hired its first Tribal Liaison, with the charge to work with the Corps to improve relationships with Indian Nations.
- USACE adopted the Tribal Policy Principles on 18 February 1998.
- Currently Tribal Liaisons/POCs in all 8 Divisions & 38 Districts.
- Tribal Nations Community of Practice = 150+ staff.
- Head Tribal Liaison at HQ has access to Army leaders.
- Outreach and Education is a major ongoing initiative.

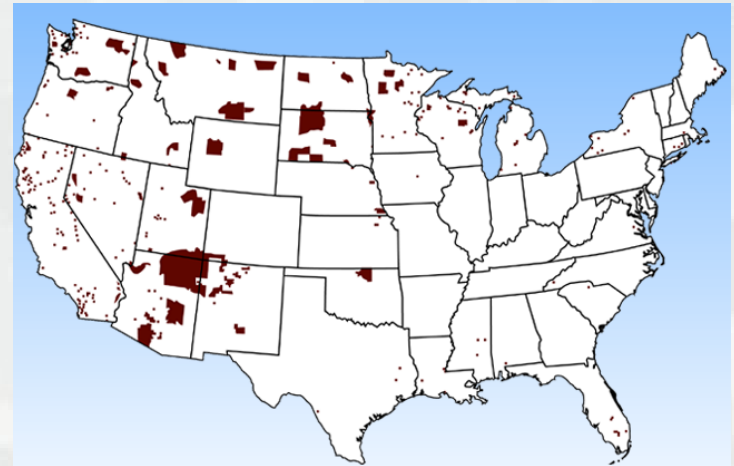


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Why is Tribal Consultation important to Planning Studies?

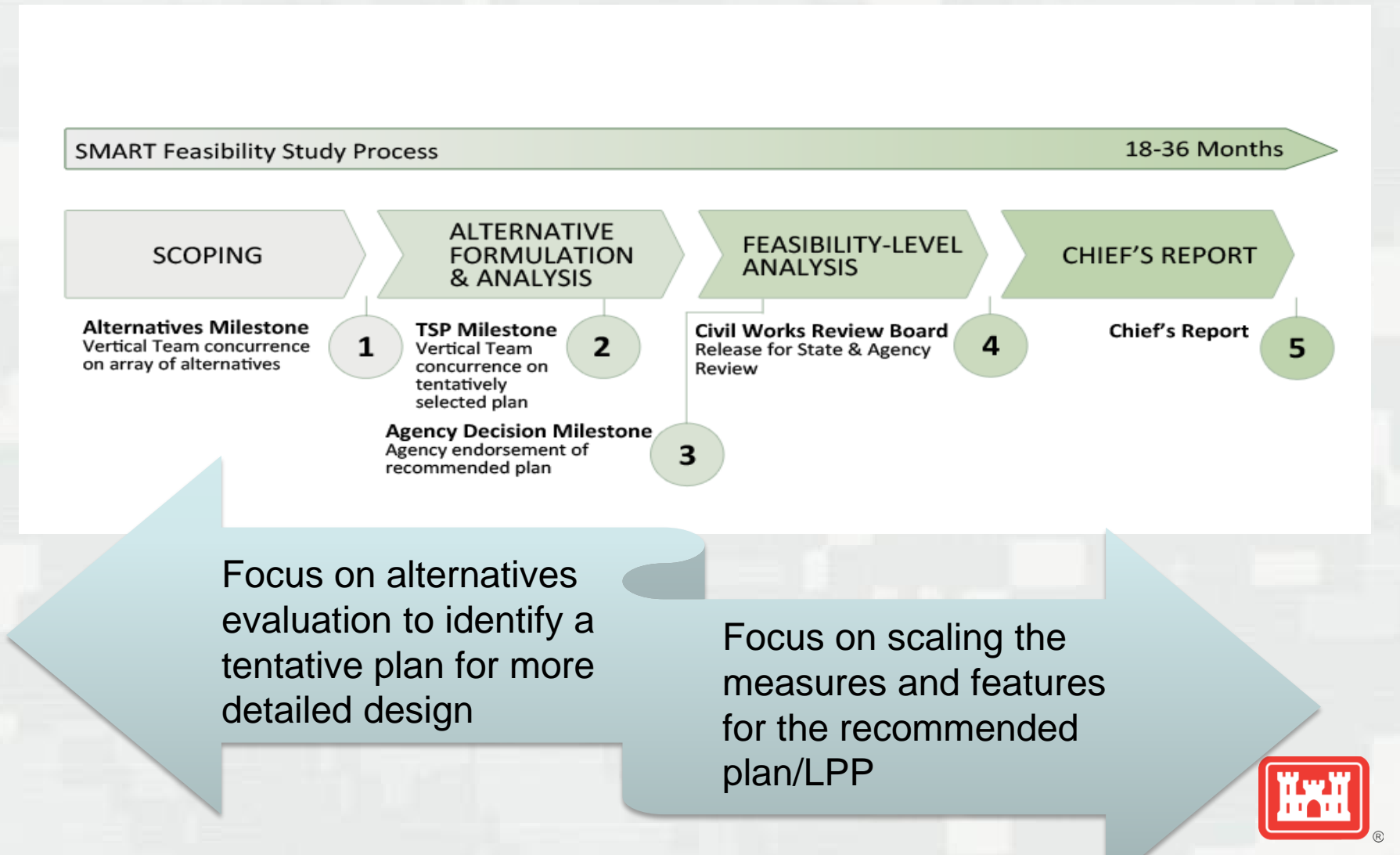
- SMART Planning needs assistance of Tribal Liaisons.
- Tribes are already asking questions about SMART Planning.
- Tribal engagement is important throughout the Smart Planning process and at decision milestones.
- As project sponsors Tribes have a vested interest in reducing the cost and time to implement USACE studies.



500+ Federally Recognized Tribes Nationwide



Focus Shifts Through the Process



In other words...

- We are moving away from feasibility reports that attempt to apply comprehensive and all inclusive levels of analysis, towards feasibility reports that:
 - ▶ Make recommendations based on levels of data that the PDT and vertical team agree are enough to support the decision at hand.
 - ▶ Consider the risks and uncertainties involved in what is unknown.
- SMART Planning is not about eliminating or providing a less detailed assessment, it is about scoping to the criteria needed to make an informed decision.



Scoping and Alternatives Milestone

- Federally recognized Tribes and other consulting parties will be asked to comment on broadly defined study areas within which alternatives will be better defined and analyzed as the study moves through later milestones – **this method may be new to them.**
- The SMART Planning process places NHPA compliance and Tribal consultation on an accelerated schedule.
- Early input from Tribes may help us effectively screen out problematic measures/alternatives.



Tools for Scoping and Alternatives Milestone

- Early Coordination Letters
- Scoping Meetings/Tribal Consultation Meetings
- Charettes
 - ▶ Consider a Tribal-only charette to allow Tribes to discuss sensitive information in a more comfortable venue, such as information on sacred sites or traditional cultural properties.
 - ▶ Planners should help-Tribes articulate their concerns in form of risks to inform Risk Registers, DMPs and other decision supporting documents.
- Probabilistic/Predictive models
 - ▶ Characterize the likelihood of significant cultural resources in a large study area.
- Archival research
 - ▶ Summary of previously established cultural resource distributions.



Early Coordination Letters

- Invite Tribes to participate as team members in planning process
- Introduce study (goals, area)
- Review SMART milestones
- Present schedule of opportunities to comment (Charette/scoping/decision milestones/mandatory public meetings)
- Describe larger study area
- Discuss data collection strategies
- Identify POCs and methods of communication (email/letter/phone)



Tentatively Selected Plan (TSP) and Agency Decision (ADM)

Goals:

- Integrate draft affected environment / baseline into report (NEPA).
- Alternatives -Evaluation and Comparison: Describe environmental impacts per alternative;
- Include mitigation per alternative.
- Cultural Resources review; SHPO/THPO concurrence on APE.
- Teams are responding to public and agency comments and refining report as necessary.
- Release of Draft Integrated Report, with draft FONSI or ROD.



Tentatively Selected Plan (TSP) and Agency Decision (ADM)

Tribal Consultation:

- Milestone meetings and Consultation Meetings
- Tribal input via review of planning documents
- Tribal input via review of draft environmental documents and NEPA public reviews
- Procedural Programmatic Agreements (PA) set forth steps Corps will take to comply with Section 106 process.
 - ▶ The PA may also identify data collection strategies, the types of impacts anticipated, and mitigation procedures.
 - ▶ To gain an executed PA prior to approval release of Draft EIS, cultural recourse managers and tribal liaisons must initiate consultation as soon as study Scoping begins.



Civil Works Review Board(CWRB) Milestone

- **Study Products/Actions**

- ▶ Complete Feasibility-level analysis.
- ▶ Initiate Feasibility-level design on TSP.
- ▶ Develop the detail needed on the recommended plan for the Final EA/EIS, including environmental impacts mitigation.

- **Tribal Consultation**

- ▶ Consultation during Value Engineering studies and optimization to further refine the project.
- ▶ Consultation during refinement to the TSP.



Making Decisions by Acknowledging and Managing Uncertainty

Decisions

- Decisions may change
 - Alternatives should be revised as more information is attained
 - There will always be some uncertainty
 - Make the best estimate possible today
- Change your decisions
 - Be as sure as is reasonable for your decision
 - When you're unsure let people know it
 - Revise decisions when needed

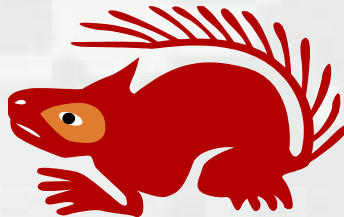
At Every Step

- Communicate throughout process, not just at Milestones
- Document and share decisions made
- Think critically – Can we make a decision with what we know now?



Managing Uncertainty and Planning Risks

- Generally, when federal agencies ask for Tribal or SHPO input early in the scoping process, the response is, “We can’t comment until you actually know your chosen alternative.”
- Early and continual Tribal input is vital to the process.
- The Section 106 process has always allowed for scaling the level of detail. Section 106 requires a “reasonable and good faith effort” to identify historic properties in enough detail to permit decisions to be made about effects.



Principal Criticism from Tribes

- “The Corps has not given us enough detail and/or information on all alternatives to adequately compare alternatives.”
- We are scaling the level of detail:
 - ▶ First, enough detail in early planning milestones to see differences/ trade-offs in plan impacts.
 - ▶ Then, enough detail in later planning milestones to provide sound estimates of impacts.



How Changes in Planning are Influencing Tribal Consultation on Feasibility Studies

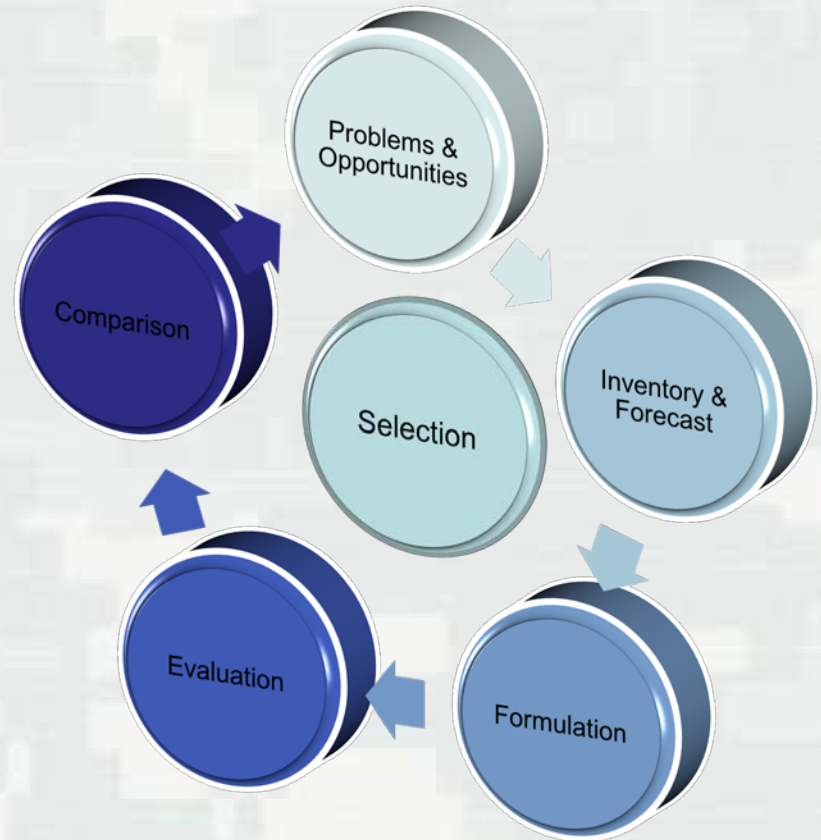


- No more Reconnaissance Studies (WRRDA 14).
- During early planning milestones, Tribes will be asked to comment on broadly defined study areas within which alternatives will be better defined and analyzed as the study moves through later milestones.
- Timeframes for Tribal coordination and execution of PAs and other agreement documents may be compressed. Work on PAs should begin during Scoping stage.
- Investigation of broadly defined study areas may not include actual cultural resource surveys but may involve use of archival and records searches; consideration of sensitive, sacred or culturally significant places, and use of predictive models.
- We will be utilizing different levels of analysis/investigation to identify historic properties at different decision milestones. Tribes can help inform understanding of appropriate data scales.
- Tribal Liaisons and Planners should help Tribes articulate concerns to inform the Risk Register and additional planning documents.



What's Not Different

- Focuses on decision making in a progressive 6-step planning process.
- Incorporates quality cultural resources, engineering, economics, real estate and environmental analysis.
- Fully compliant with all laws & policies (e.g., NHPA, NEPA).
- Tribal Consultation on Operations and O&M projects and Regulatory reviews.
- **Government-to-government consultation with Federally recognized Tribes may occur at any time during the project.**



What About Section 203, CAP and PAST?

- Tribes often partner with the Corps through Section 203 (Tribal Partnership Program, WRDA 2000), CAP and Planning Assistance to States and Tribes (PAST) (WRDA 1974).
- All feasibility studies must use SMART Principles/Framework, including Section 203.
- The elimination of the Reconnaissance Phase by WRRDA 14 is an issue with the Tribes.
- In MVD CAP and PAST will utilize SMART Planning principles (balancing risks and levels of detail) but not follow not the milestones.
- Watershed assessment studies apply SMART Planning principles but not necessarily follow not the milestones.



Tips for Success

- Tribal Liaisons should have a good understanding of SMART Planning process.
- Tribal concerns must be understood early in the process.
- Emphasis should be placed on training our Tribal Liaisons in developing and communicating risks and uncertainties.
- Tribal Liaisons must work closely with Planners and environmental staff at every step.
- Risk registers will require regular management to reflect changes in the cultural resources requirements and Tribal concerns.
- Tribal Liaisons and cultural resources staff should attend public scoping meetings and make sure the presentations elicit Tribal comments on Tribal resources.
- We should educate THPOs on the SMART Planning process.



Talking Points for Tribal Engagement on SMART Planning

- The USACE's normal government-to-government consultation procedures are the same, and consultation may occur at any point.
- SMART Planning organizes the planning process for feasibility studies around key decision points. The levels of detail will increase as we move towards a selected alternative.
- Multiple opportunities for engagement with Tribes at each Decision Milestone.
- SMART Planning applies critical thinking and engagement of multi-disciplinary teams at the beginning and throughout the study process, to collaboratively determine the levels of analysis (and the risk of what we don't know) appropriate to the decision point.



Talking Points for Tribal Engagement on SMART Planning

- Tribal input will be important when developing levels of analyses and understanding risk appropriate to particular decision points.
- During Scoping and the Alternatives Milestone, Tribes will be asked to comment on a very broadly defined Area of Potential Effects (within which alternatives will be better defined and analyzed as the study moves through later milestones).
- The more information the tribes can give us right up front on what to avoid may help us effectively screen out some measures/alternatives early before too much analyses is done on it.



SMART Planning Resources

USACE Planning Community Toolbox:

<http://planning.usace.army.mil/toolbox/index.cfm>

USACE Tribal Nations Program

<http://www.usace.army.mil/Missions/CivilWorks/TribalNations.aspx>



Questions?

Type questions in the chat box –
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We will answer as many as time
allows.



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