

CORPS OF ENGINEERS REGULATORY PROCESS FOR THE SALTON SEA MANAGEMENT PROGRAM PHASE 1: 10-YEAR PLAN

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USACE, Los Angeles District
Regulatory Division
South Coast Branch

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US Army Corps
of Engineers®



OVERVIEW



1. Corps Regulatory Program
2. Section 404 Clean Water Act Permitting for State's Salton Sea Management Program 10-Year Plan Projects (SSMP 10-Year Plan)
3. Section 404 Permitting and Geothermal and Lithium Extraction Projects
4. Status of Other Corps Non-SSMP Efforts at Salton Sea

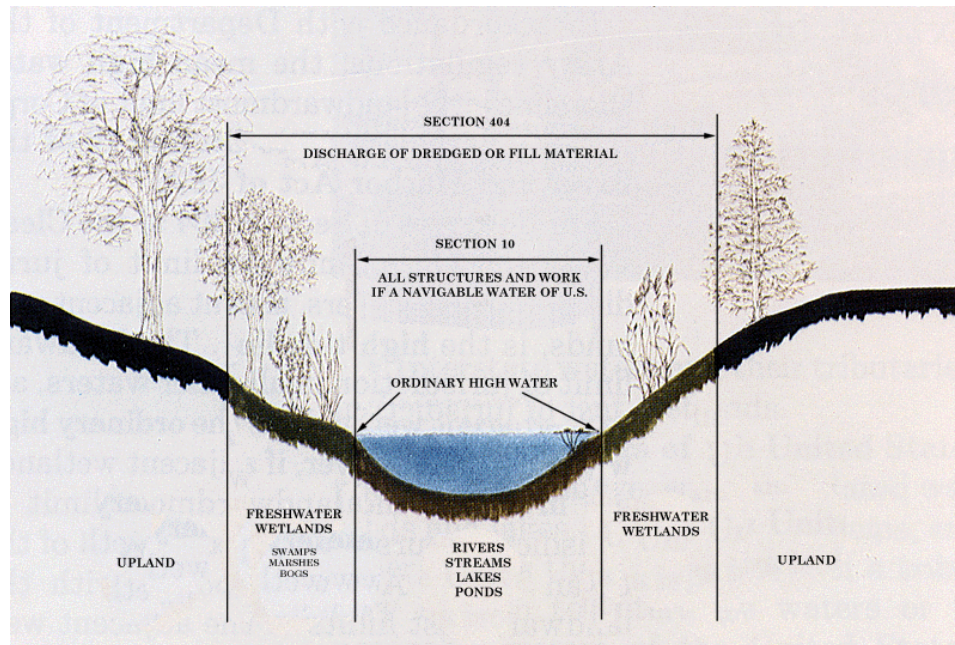




CORPS REGULATORY PROGRAM

Mission

- To protect aquatic resources
- To allow reasonable development
- To make fair, timely, and balanced permit decisions

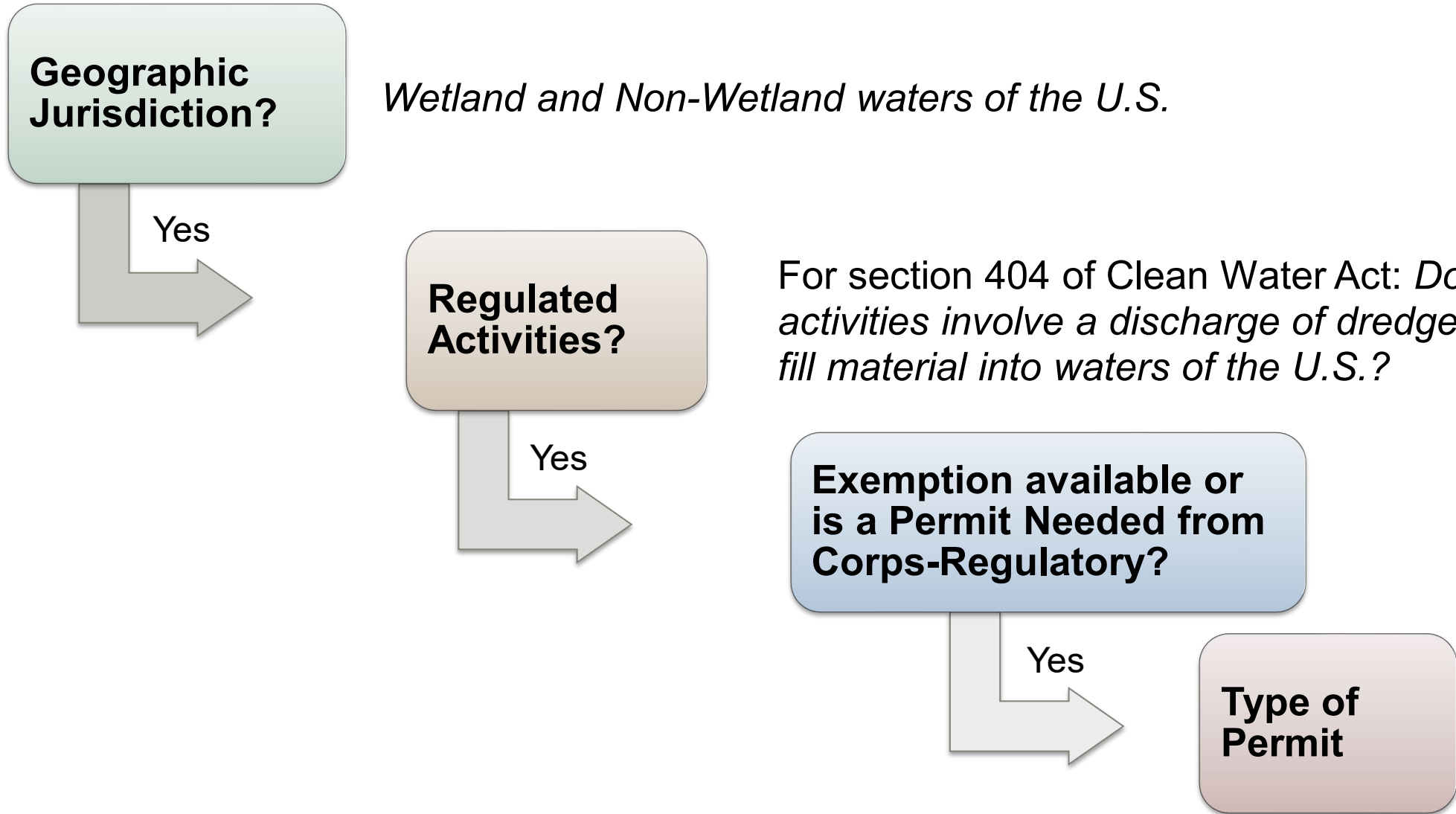


Authorities

- **Sec. 10 Rivers & Harbors Act of 1899:** Any Structures/ Work in or Affecting Navigable Waters (Pacific Ocean, harbors, tidal inlets/outlets, Colorado River)
- **Sec. 404 Clean Water Act of 1972:** Discharges of Dredged or Fill Material into Waters of the U.S. (Navigable waters, tributaries, and associated wetlands)

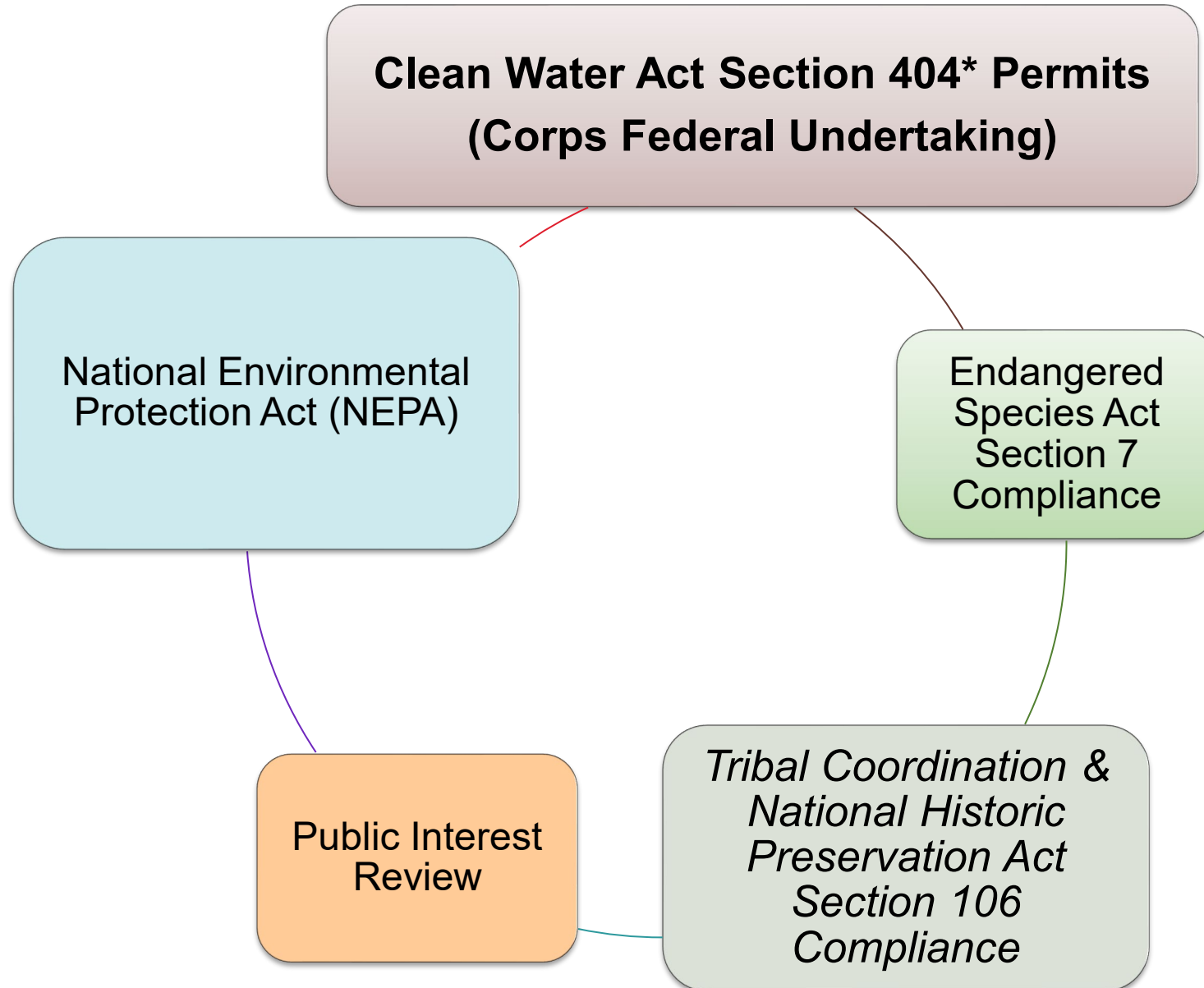


REGULATORY THINKING PROCESS





CORPS REGULATORY DECISION-MAKING PROCESS



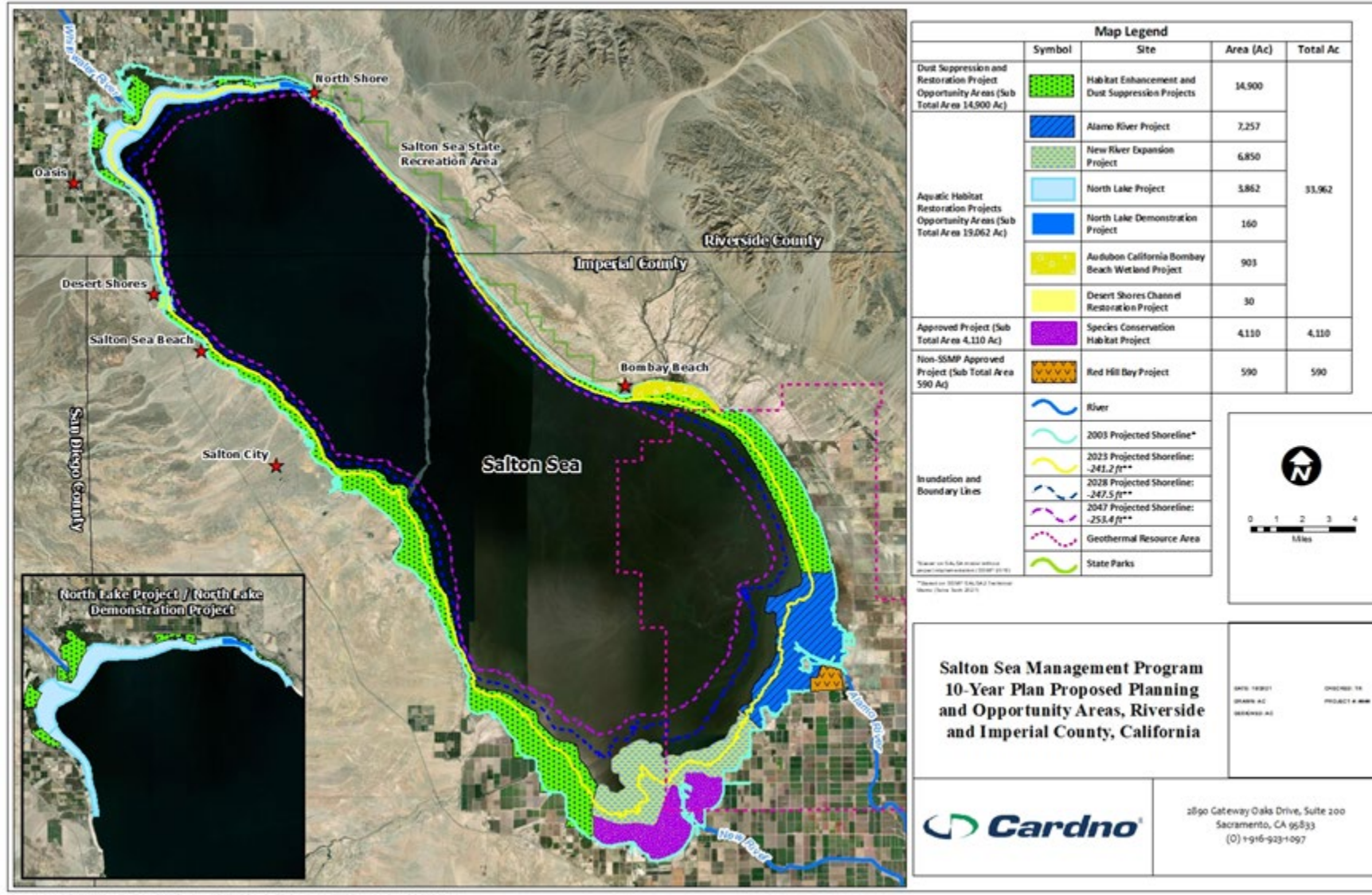
*Same permit process for Section 10 Rivers & Harbors Act



SECTION 404 PERMITTING AND THE STATE OF CALIFORNIA'S SALTON SEA MANAGEMENT PROGRAM PHASE 1: 10-YEAR PLAN

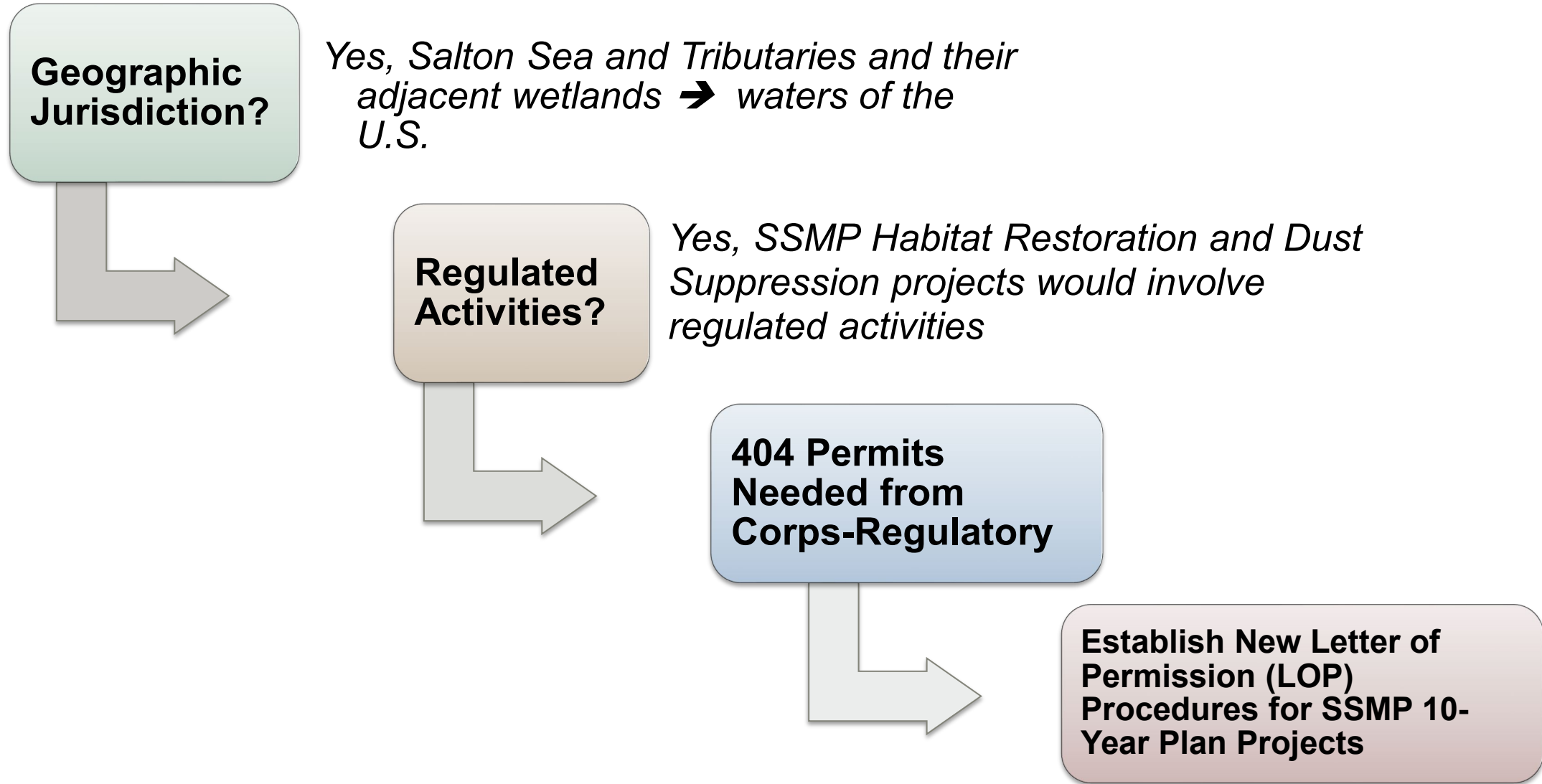


STATE'S SALTON SEA MANAGEMENT PROGRAM PHASE 1: 10-YEAR PLAN (SSMP 10-YEAR PLAN)



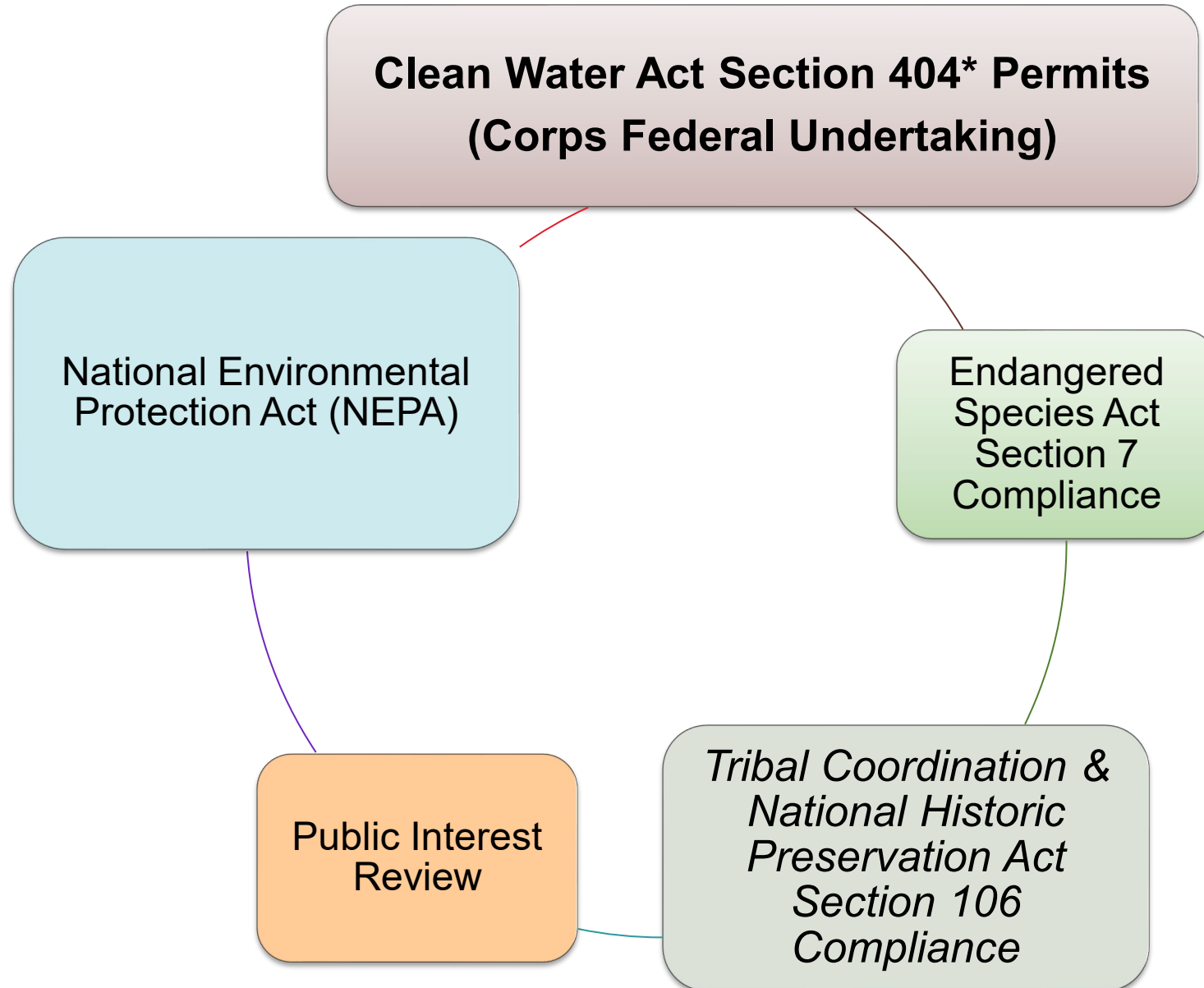


SSMP 10-YEAR PLAN AND SECTION 404 OF CLEAN WATER ACT PERMITTING PROCESS





CORPS REGULATORY DECISION-MAKING PROCESS



*Same permit process for Section 10 Rivers & Harbors Act



SSMP 10-YEAR PLAN AND NEPA COMPLIANCE

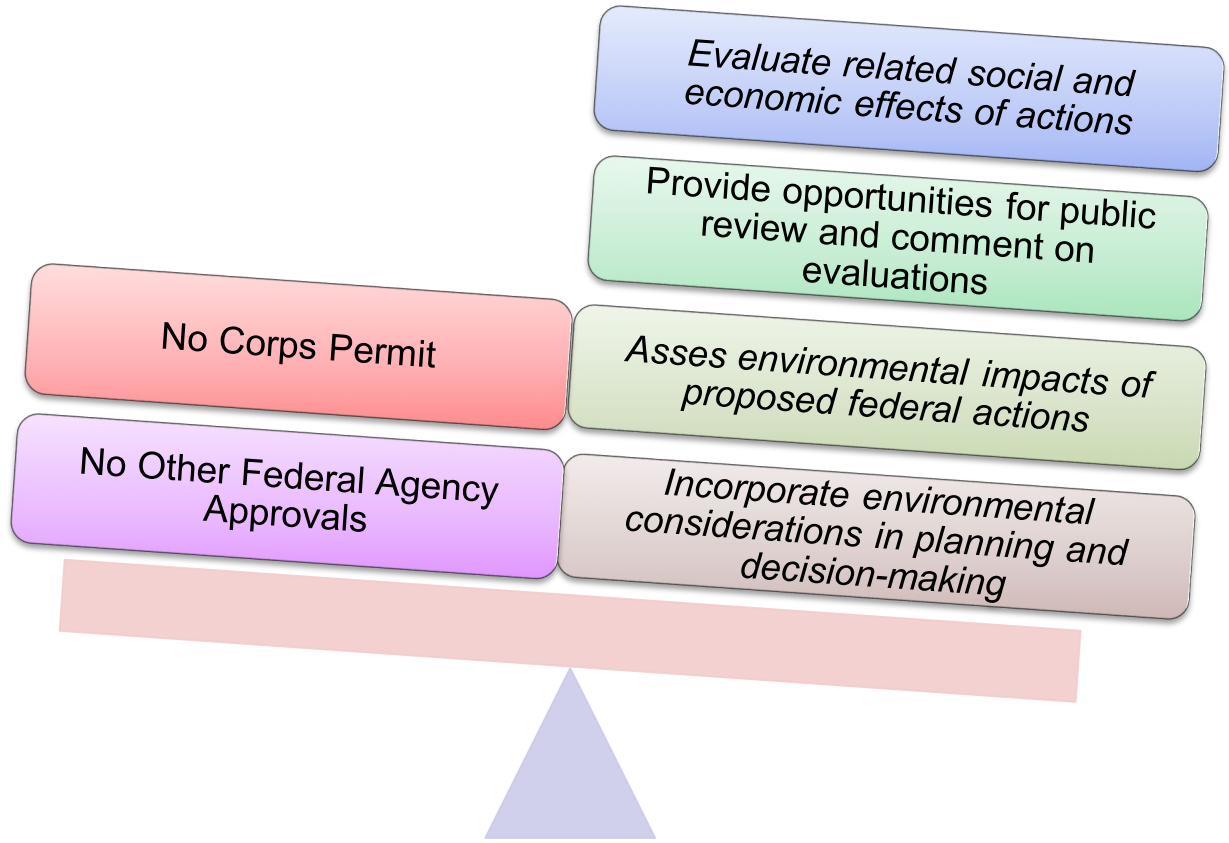


Certain Federal Actions
→ NEPA Compliance

No Federal Action

Proposed Action & Alternative(s)

Prepare Environmental Assessment (EA)





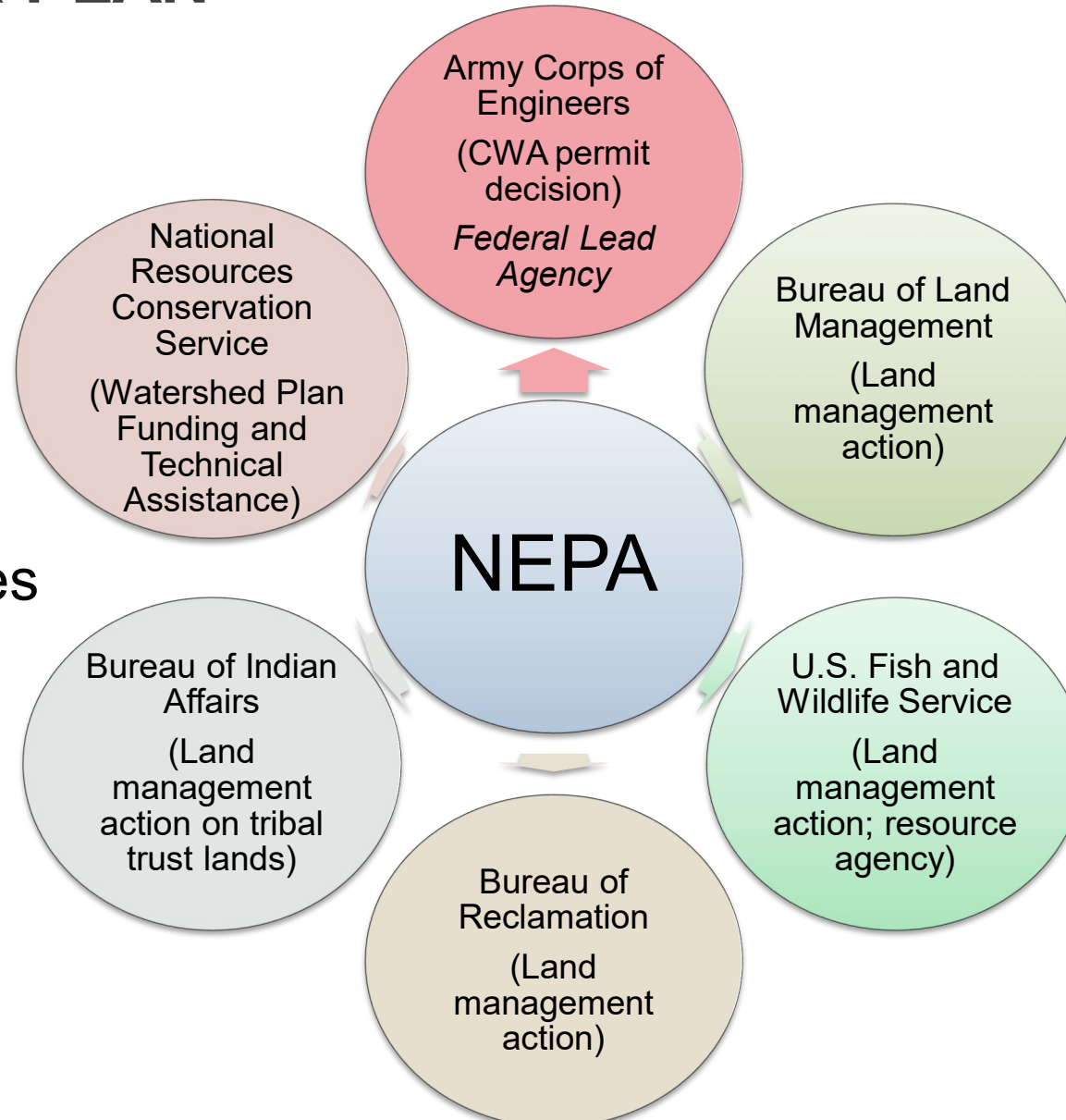
CORPS AS LEAD FEDERAL AGENCY FOR NEPA REVIEW OF SSMP 10-YEAR PLAN

Federal Actions



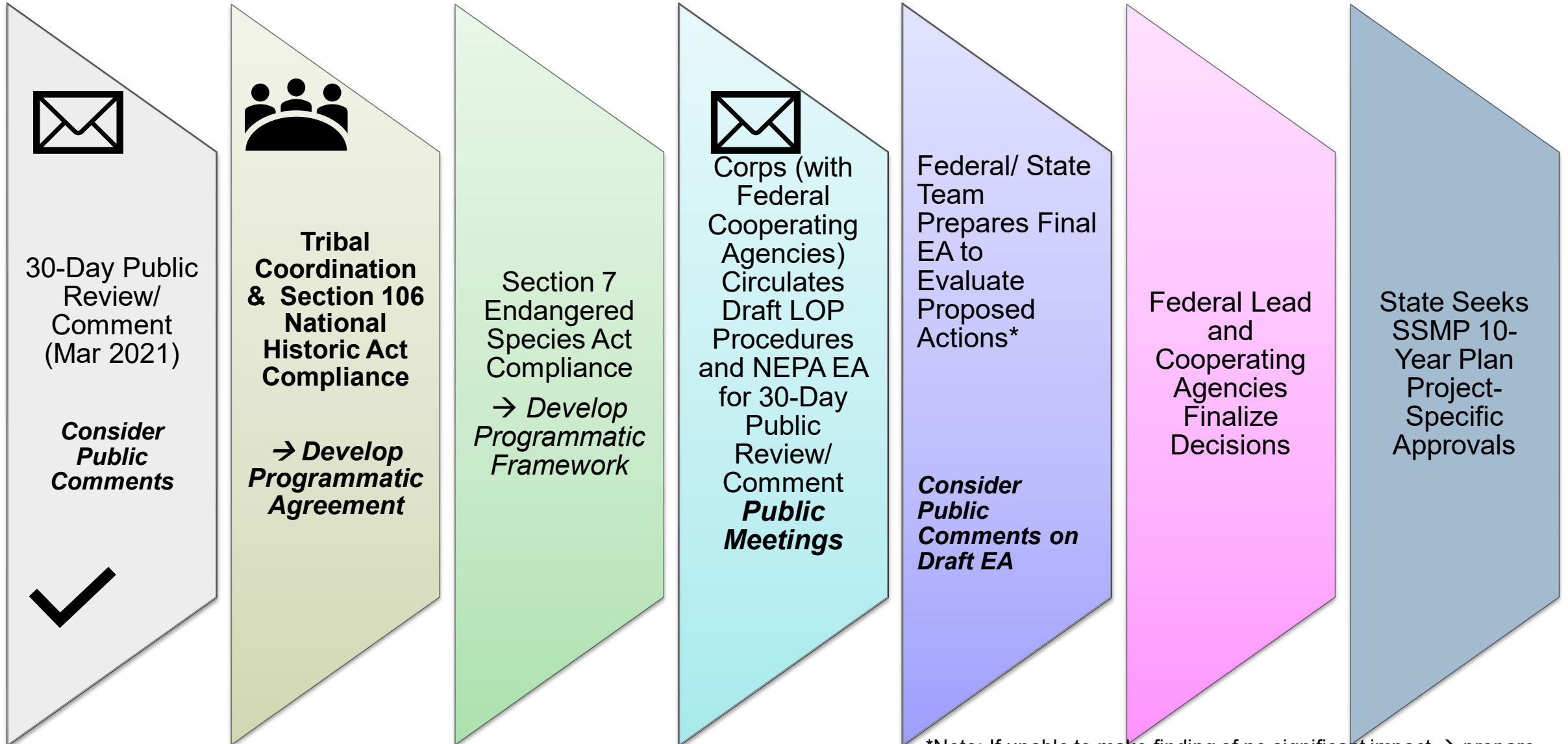
NEPA Compliance

Federal Cooperating Agencies





ESTABLISH NEW 404 LETTER OF PERMISSION (LOP) PROCEDURES TO PERMIT SSMP 10-YEAR PLAN PROJECTS



*Note: If unable to make finding of no significant impact → prepare Environmental Impact Statement



TRIBAL COORDINATION AND OUTREACH



Tribal Coordination & Section 106 National Historic Preservation Act Compliance*

Corps Sent Letters to Federally Recognized Tribes

- Responses received from three Federally recognized Tribes requesting consultation
- Corps Tribal Liaison will reach out by phone

Corps Sent Letters to State Historic Preservation Officer

Corps will invite Advisory Council on Historic Preservation to consult

→ Develop Programmatic Agreement



NEPA Process:

Corps (with Federal Cooperating Agencies) will circulate Draft LOP Procedures and NEPA EA for 30-Day Public Review/ Comment (exp. Spring 2022)

- All interested parties may submit comments for the administrative record

→ Public Review and Comment Period, incl. Public Meetings (Virtual)

Proposed Permitting Approach:

State may submit application(s) for SSMP 10-Year Plan Project-Specific Approvals per LOP Procedures for 404 Permits

- To receive 401 Water Quality Certification(s)
- To follow ESA Section 7 Process

- To follow Programmatic Agreement (Section 106 Process)

[State to negotiate land access]

*Note: State remains engaged with outreach efforts for SSMP 10-Year Plan, including with Tribes



Tribal Coordination & Section 106 National Historic Preservation Act Compliance*

- Corps sent letters via email and hardcopy to 25 Federally recognized Tribes and 1 non-Federally recognized Tribe
- Requested comments from Tribes regarding historic resources within the SSMP 10-Year Planning Area and Potential Effects of permitting the proposed implementation of habitat restoration and dust suppression projects
- Received responses from three Tribes wishing to consult
- Consulting Tribes may provide comments, concerns, and/or recommendations to the Corps
- Consulting Tribes may be invited to sign Programmatic Agreement as Concurring or Signatory Part(ies) (depending on involvement)
- Specific SSMP 10-Year Plan projects and activities will follow LOP Procedures and Programmatic Agreement for Section 106 Process

*Note: Corps' Tribal Policy is available online at <https://www.usace.army.mil/Missions/Civil-Works/Tribal-Nations>



TRIBAL LETTER



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CALIFORNIA 92008-8832

February 23, 2022

SUBJECT: Section 106 Tribal Consultation for Implementation of the Salton Sea Management Program Phase I: 10-Year Plan (SPL-2019-00951-KJD)

Addressee [Tribal Point of Contact(s)]

Dear [Chairperson/THPO/Cultural]:

The U.S. Army Corps of Engineers (USACE), Los Angeles District, has received an application for a Department of Army (DA) permit pursuant to Section 404 of the Clean Water Act (CWA; 33 USC §1344) from the California Natural Resources Agency (CNRA), Department of Water Resources (DWR), and the California Department of Fish and Wildlife (CDFW) (collectively referred to as the SSMP State Team) in order to implement their Salton Sea Management Program Phase I: 10-Year Plan Project (CNRA et al. 2018), hereafter referred to as the SSMP 10-Year Plan. The SSMP 10-Year Plan includes a range of current and future habitat restoration and dust mitigation projects proposed for implementation over the next decade along the shoreline of the Salton Sea in Riverside County and Imperial County, California. Two maps of the project area are attached to this letter (*Attachment A: Proposed SSMP Project Area Map* and *Proposed SSMP Project Area Showing Tribal Lands*). The State's complete SSMP 10-Year Plan is available online at: <https://saltonsea.ca.gov/wp-content/uploads/2020/01/SSMP-Phase-1-10-Year-Plan.pdf>.

The Salton Sea shoreline encompasses a mix of federal, state, private, and tribal lands. Beyond the USACE's issuance of one or more DA permits, it is expected that implementation of portions of the SSMP 10-Year Plan will require the issuance of use authorizations or approvals from the U.S. Bureau of Reclamation (Reclamation), the US Bureau of Land Management (BLM), and U.S. Fish and Wildlife Service (USFWS) for work on lands under their respective jurisdictions. The Bureau of Indian Affairs (BIA) may have trustee responsibilities for any activities that would involve Indian lands within the SSMP 10-Year Plan area. Furthermore, it is anticipated that the U.S. Department of Agriculture-Natural Resources Conservation Service (NRCS) and Reclamation would provide technical and funding assistance.

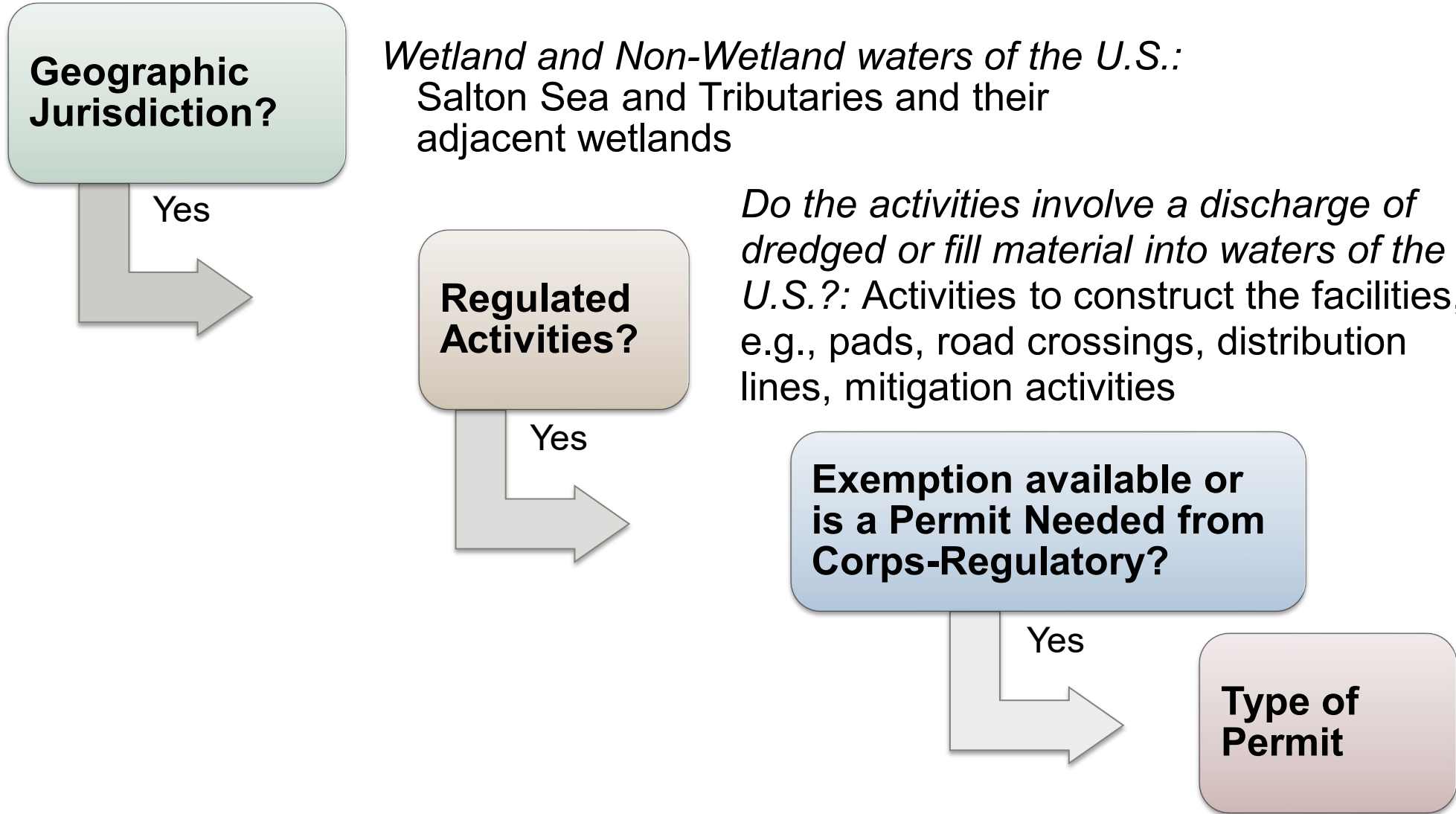
Pursuant to 36 CFR 800.2(a)(2), the USACE has been designated the lead federal agency for the undertaking, acting on behalf of the aforementioned federal agencies,



SECTION 404 PERMITTING AND GEOTHERMAL DEVELOPMENT AND LITHIUM EXTRACTION PROJECTS



REGULATORY THINKING PROCESS APPLIED TO GEOTHERMAL DEVELOPMENT AND LITHIUM EXTRACTION PROJECTS





SALTON SEA AND THE CORPS BEYOND REGULATORY:

Civil Works Ecosystem Restoration Program & Tribal Partnership Program



Aquatic Ecosystem Restoration

Senate Committee on Environment and Public Works Resolution, 2016



Imperial Streams Salton Sea and Tributaries

Authorized for feasibility study* to investigate the creation of ponds to expand wetlands, stabilize lake shoreline with steady water elevations, reduce brine line buildup in the Salton Sea

Status: Corps (Civil Works) is partnering with Salton Sea Authority on this aquatic ecosystem restoration study



*[*Study is consistent with Salton Sea Species Habitat Conservation Project 2013 Final Environmental Impact Statement/ Environmental Impact Report]*



Tribal Partnership Program

Water Resources Development Act of 2000, Section 203



Torres Martinez Salton Sea Ecosystem Restoration Study

The TTP provides the Corps with broad authorities to assist with water resources projects on tribal lands that address economic, environmental, and cultural resources needs through studies including flood risk management, environmental restoration, and protection and preservation of natural and cultural resources.

The outcome of studies can lead to Corps participation in the design and construction of a project that provides a solution to the identified issues.

Status: Corps (Planning) is working to enter into a partnership agreement with the Torres Martinez Tribe to begin an ecosystem restoration study within Tribal lands at the confluence of the Whitewater River and the Salton Sea





CONCLUSION



1. Explained Corps' permitting role for the State's proposed SSMP 10-Year Plan Aquatic Habitat Restoration and Dust Suppression Activities
2. Reviewed Status of Regulatory Process, including NEPA Compliance for SSMP 10-Year Plan
3. Described Opportunities for Participation by Affected and Interested Tribes
4. Provided Update on Corps non-SSMP Efforts at Salton Sea