

# US Army Corps of Engineers

## Department of the Army Permit Process

### For the Ca Water Fix Project

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## Zachary Simmons

Senior Project Manager,

Enforcement and Special Projects Unit

US Army Corps of Engineers, Sacramento  
District



US Army Corps of Engineers  
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# Regulatory Authorities

## Rivers and Harbors Act of 1899

- **Section 10**
  - *Work and Structures within Navigable Waters*
- **Section 14 (“Section 408”)**
  - *Impact/Modification to Federally Authorized Projects*

## Clean Water Act

- **Section 404**
  - *Discharge of Dredged or Fill Material*



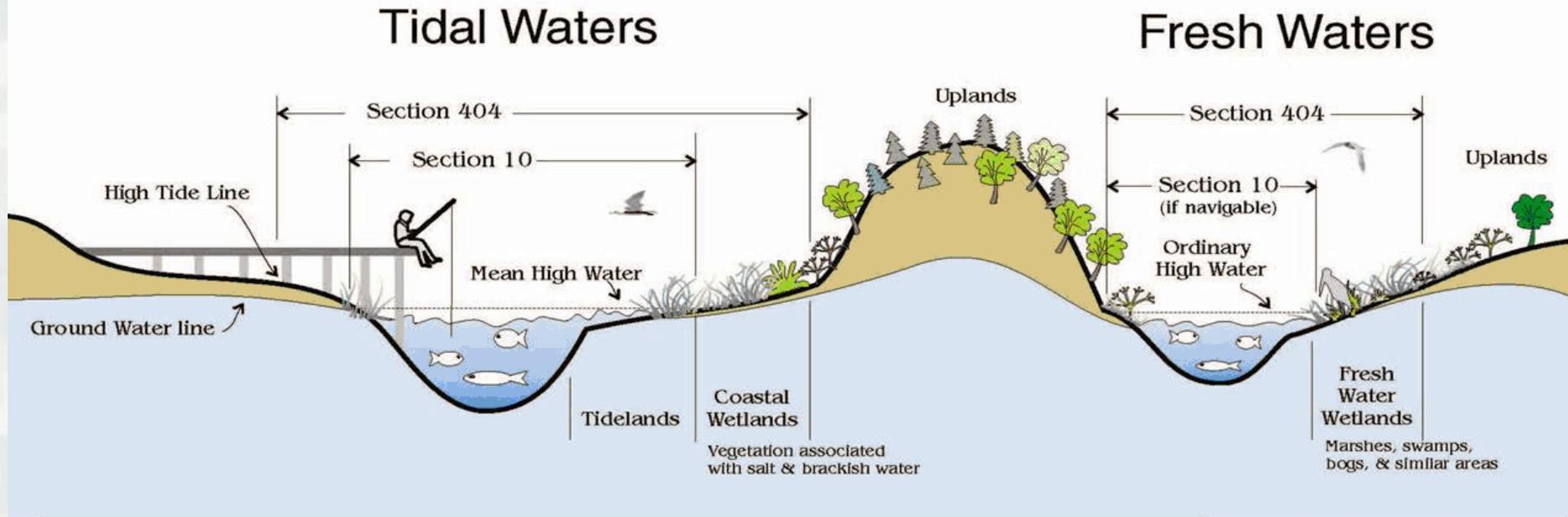
# USACE Regulatory

## – PERMITTING PROCESS –

1. Jurisdiction – Delineation and JD
2. Permit Application – Pre-application meeting
3. Compliance with Other Laws (Sec 7, 106, 401)
4. Individual Permit
  - a. Public Notice
  - b. Alternatives Analysis
  - c. NEPA / Decision Document
5. Permit Decision/Issuance



# Waters of the United States



Typical examples  
of regulated activities

**Section 103**  
Ocean Disposal  
of Dredged Material

Ocean discharges of  
dredged material

**Section 404**  
Discharge of Dredged or Fill Material  
(all waters of the U.S.)

All filling activities, utility lines, outfall structures,  
road crossings, beach nourishment, riprap,  
jetties, some excavation activities, etc.

**Section 10**  
All Structures and Work  
(navigable waters)

Dredging, marinas, piers, wharves,  
floats, intake / outtake pipes,  
pilings, bulkheads, ramps, fills,  
overhead transmission lines, etc.



# Wetland Delineation

- Preliminary Jurisdictional Determination (PJD)
  - All potential waters “may be” jurisdictional
- Water Fix
  - Worked with DWR to properly identify waters within the Delta
  - *Jun 11, 2015* – PJD verified
- Remote sensing and previous delineations



# 404/10 Permit Application

- Application from DWR
  - Aug 24, 2015 – Complete app submitted
    - 33 CFR 325.1 (c), (d) & (e) – *Applications for Permits*
  
- Public Notice
  - 33 CFR 325.3 – *Public Notice*
  - Sep 9<sup>th</sup> – 30-day public notice released
  - Extended to Nov 9<sup>th</sup> (60 days)
  - Nov 19<sup>th</sup> – **Comments submitted to DWR**



# Complete Application

An application will be determined to be complete when **sufficient information** is received to issue a public notice

- \* The issuance of a public notice will not be delayed to obtain information necessary to evaluate an application

325.1(d)(10)



# Public Notice

- The notice must... include **sufficient information** to *give a clear understanding* of the nature and magnitude of the activity to generate meaningful comment

325.3(a)

- Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any, on factors affecting the public interest

325.3(a)(13)



# Public Notice Comments

- **55** comment letters
  - **181** comment emails
  - **74** requests for public hearings
  - **6** congressional representatives
- Nov 18<sup>th</sup> – Comments submitted to DWR for responses
  - Nov 19<sup>th</sup> – Corps responded to requests for public hearing
    - Unlikely to produce new information
    - Previous public meetings



# Next Steps 404/10 Permit

## *Compliance with other laws*

- NEPA

- In progress;
  - Responding to comments
  - Preparing Final EIS
- Bureau of Reclamation is the lead federal agency

- Section 7 of the Endangered Species Act

- Draft Biological Assessment
- Bureau of Reclamation is the lead federal agency



# Next Steps 404/10 Permit

- Section 106 of the National Historic Preservation Act
  - In progress with SHPO
    - Draft Programmatic Agreement
  - Consulting with Native American Tribes
  - Corps is the lead federal agency
- Section 401 CWA Water Quality Certification
- Section 408 Authorization



# Section 408 Authorization

- Initiated *Dec 18, 2015*
- Features requiring 408 authorization:
  - Intakes (levee)
  - Head of Old River Barrier
  - Tunnel under Stockton Deep Water Ship Channel
  - Mitigation or environmental commitments within a federally authorized project
- Required prior to Sec 404/10 permit for covered features



# Next Steps 408 Authorization

## *Additional Information Required*

- Design documents (Conceptual through 100%)
- Hydraulic analysis
  - Impacts to water surface elevations (upstream, downstream & adjacent) during and post construction
- External peer review
- Supplemental NEPA document
- Headquarters review



# Permit Decision

- 404(b)(1) **Alternatives Analysis**
  - Information is being prepared by DWR
  - Analysis is completed by the Corps
- **Compensatory Mitigation Plan**
  - Mitigation strategy/draft plan is being prepared by DWR
  - Final plan approval prior to permit decision
- **Public Interest Review**
- **Response to Comments**
- **Special Conditions**



# Permit Decision

- NEPA Record of Decision (ROD) for 404/10 action to include the *entire project*
  1. Project components *not requiring* Sec 408 Authorization
  2. Project components *requiring* Sec 408 Authorization
    - 404/10 and 408 permits together



# Public Involvement

- Section 404/10
  - Comments on the Public Notice
  - Freedom of Information Act requests
- NEPA
  - Comments on the Final EIS



# USEPA Involvement

- Oversees implementation of the CWA
  - Regular coordination meetings with Corps and DWR
  - Public Notice and EIS Comments
- Section 404 (q) – **Dispute Resolution**
  - Only used 11 times
- Section 404 (c) – **Veto Authority**
  - Unacceptable adverse effects
  - Only used 13 times



# Corps Permitting Timeline

\* Depends on the submittal of required information

404/10

- Summer 2016 – Final EIS
- Fall/Winter 2016 – ROD/Permit Decision

408

- 2017-2020 – Section 408 design review
- 2020 – Supplemental NEPA Document



# Contact Information

## Sacramento District Regulatory Office:

Main: 916-557-5250

FAX: 916-557-7803

<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

Zachary Simmons: 916-557-6746

[Zachary.M.Simmons@usace.army.mil](mailto:Zachary.M.Simmons@usace.army.mil)

