

# THINGS YOU NEED TO PROCESS YOUR CORPS APPLICATION: ESA, CULTURAL, EFH, 408, & 401 WATER QUALITY CERTIFICATION

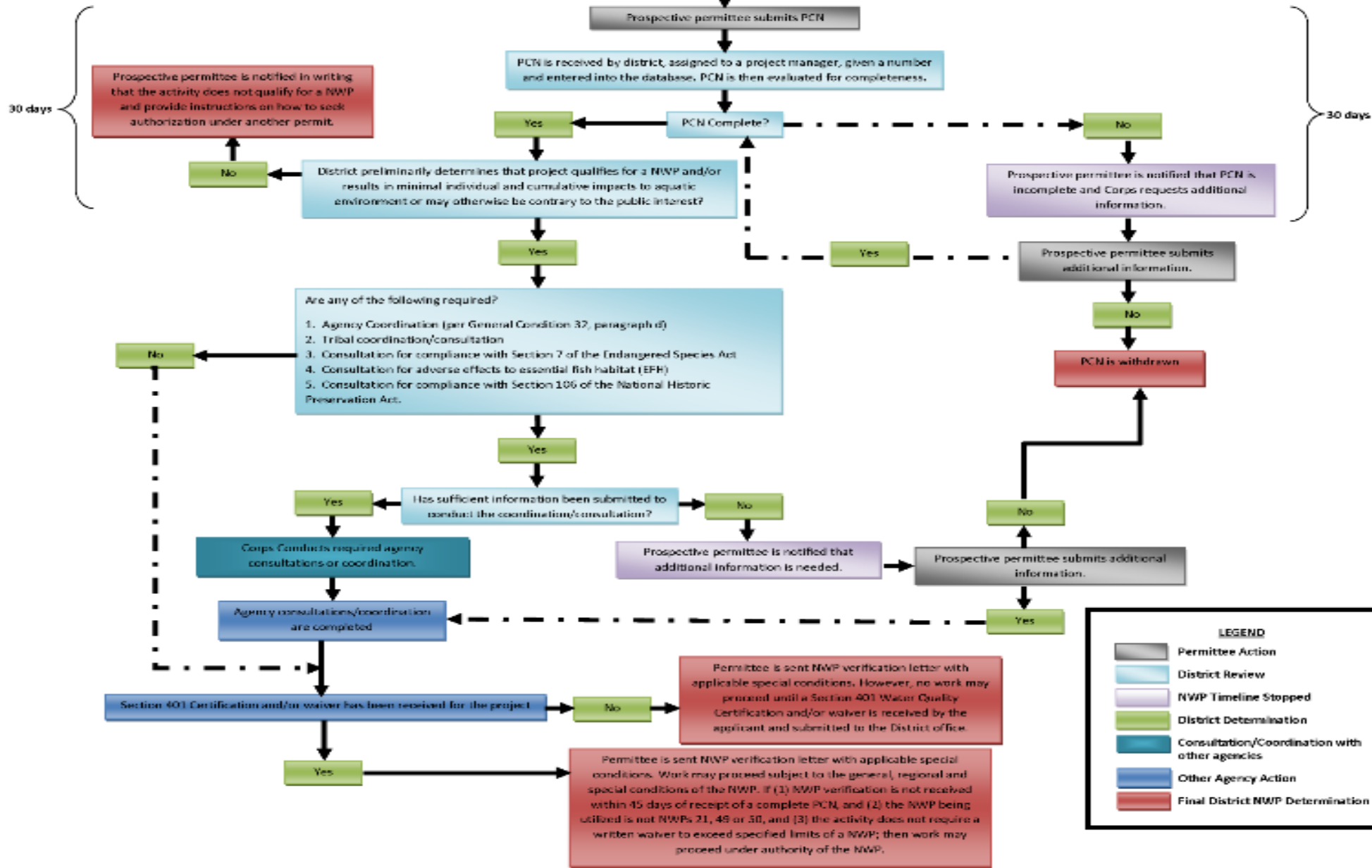
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US Army Corps  
of Engineers®



# NATIONWIDE PERMIT PROCESS





# CORPS MUST COMPLY WITH OTHER FEDERAL LAWS



- **Federal Endangered Species Act.**
- **Magnuson-Stevens Fishery Conservation and Management Act.**
- **National Historic Preservation Act.**
- **Fish and Wildlife Coordination Act.**
- **Section 408, Section 14 of the Rivers & Harbors Act.**
- **Section 401, Water Quality Certification.**
- **National Environmental Policy Act (NEPA).**





# REPORT BASICS



- Reports must be recent-should be no more than 1-2 years old.
- Give the project location and use a vicinity map.
- Identify the project boundary and give its acreage total.
- Identify report author's name, physical address, phone number, and email address.
- Date the report, date all photographs and figures within the report.





# REPORT BASICS



- Wetland delineation map is helpful.
- Topography and soils maps are helpful.
- Provide site watershed information.
- Provide a wet season aerial photograph of the site.





# FEDERAL ENDANGERED SPECIES ACT



- **Most project applications need a Biologic Assessment.**
- **Biological Assessment should be for the project site and appropriate surrounding area.**
- **Check with known species experts and State and Federal websites for information on potential species of concern within the project area.**





# FEDERAL ENDANGERED SPECIES ACT

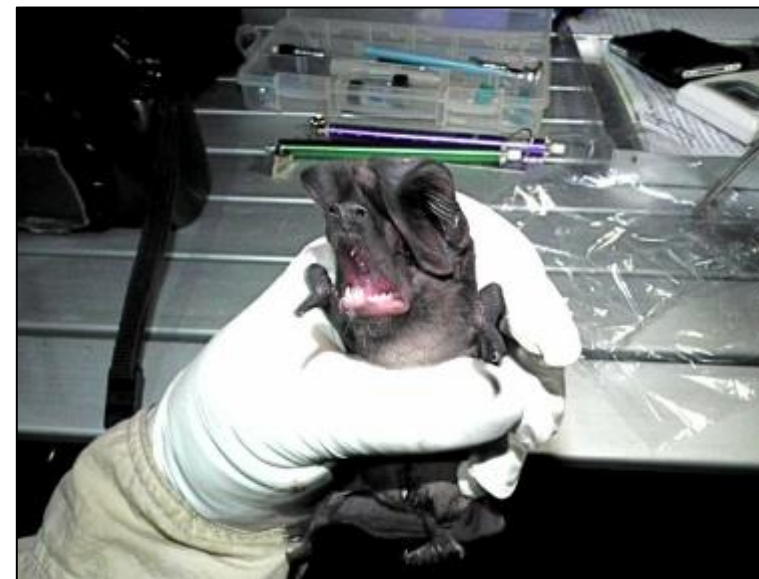
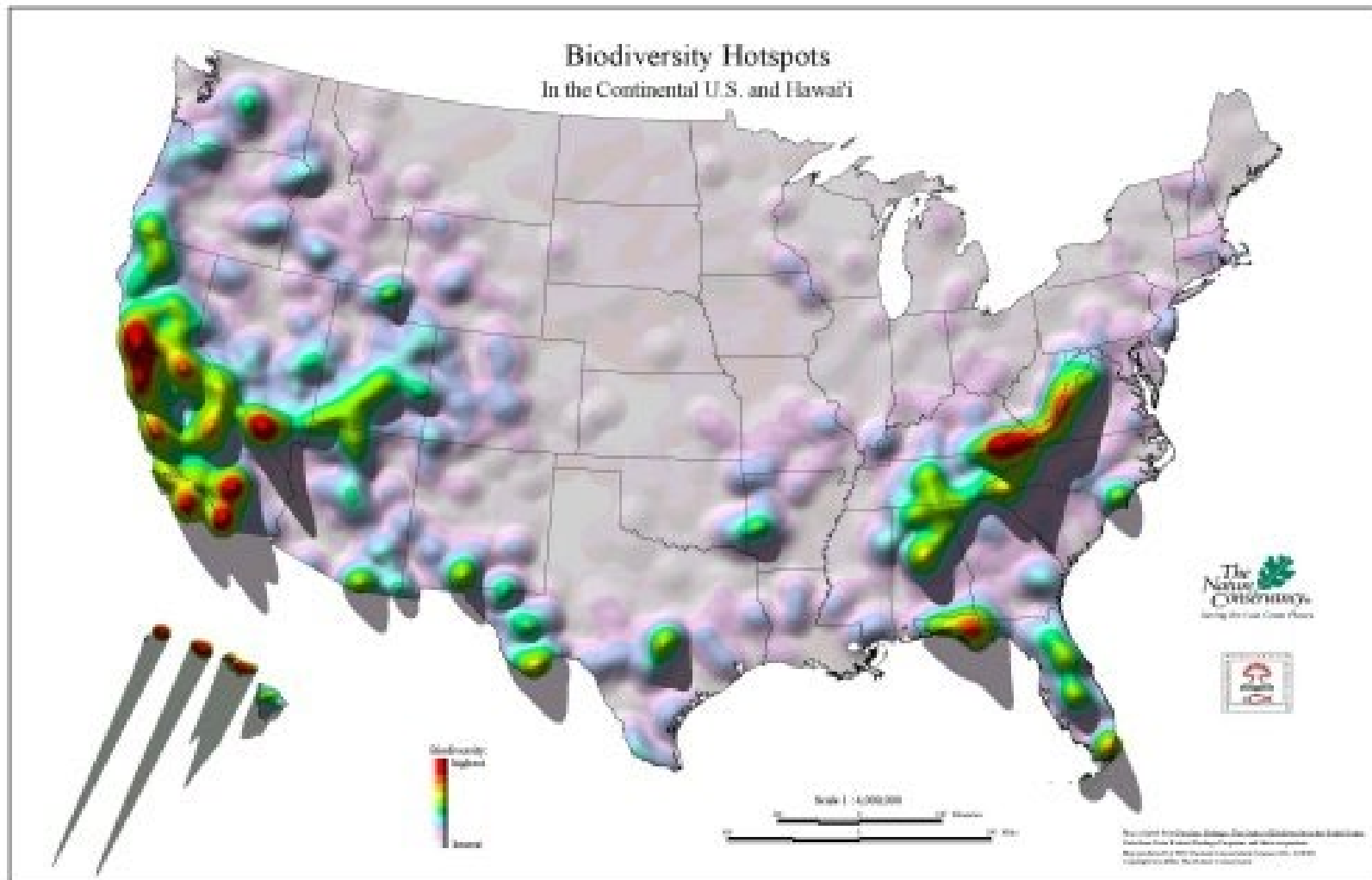


- Survey for listed species at the right time of day/night and at the right time of the year.
- Species should be active at time of the survey, or for plants they should be in bloom or otherwise identifiable.
- Accurately summarize findings.
- Corps will make an effects determination.





# CALIFORNIA HAS A LOT OF DIVERSITY







# ESSENTIAL FISH HABITAT (EFH)



- **Comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens Act), Essential Fish Habitat (EFH).**
- **Include this in the Biological Assessment if an evaluation of EFH is necessary. If it isn't necessary, explain why not.**





# NATIONAL HISTORIC PRESERVATION ACT



- **Conduct a records search for previous studies of the area.**
- **Conduct a Sacred Lands Search.**
- **Obtain a list of current Recognized Native American Tribes of the project region.**
- **Conduct a field survey of the Area of Potential Effect (APE).**
- **Lead staff archeologist needs to meet the Secretary of Interior Standards.**



**Section 106**



# NATIONAL HISTORIC PRESERVATION ACT



- Analyze the findings by NEPA/federal level.
- Analyze the found resources if they have the potential to be eligible to be listed in the National Register of Historic Places. Go through each of the four criterion.





# FISH AND WILDLIFE COORDINATION ACT



- Federal and State level agencies communicate on species of concern.
- Reports should address both State and Federal species of concern in the area.





# SECTION 408: SECTION 14 OF R&H ACT



- Investigate if the project site falls within Section 408 jurisdiction.
- If it does, contact the Federal Sponsor of the project site. Most likely this would be the Central Valley Flood Protection Board for California.
- Work with the Federal Sponsor to obtain the proper authorization.
- Corps, Regulatory can not issue a permit until after the Section 408 process is complete.

**Rivers & Harbors Act**



# 401 QUALITY WATER CERTIFICATION



- Recommended that 401 is obtained before you apply for a 404 permit.
- Contact the Regional Water Quality Control Board directly for a consultation meeting.
- Apply and obtain the 401 water quality certification.





# 401 WATER QUALITY CERTIFICATION



- If you don't have your 401 certification when you apply for your Corps' permit-

- **Include the following in your 401 application:**

1. Identify the project proponent(s) and a point of contact;

2. Identify the proposed project.

3. Identify the applicable federal license or permit.

4. Identify the location and nature of any potential discharge that may result from the proposed project

and the location of receiving waters;





# 401 WATER QUALITY CERTIFICATION



5. Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge;
6. Include a list of all other federal, interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received;
7. Include documentation that a pre-filing meeting requested was submitted to the certifying authority at least 30 days prior to submitting the certification request;







# 401 WATER QUALITY CERTIFICATION



8. Contain the following statement: ‘The project proponent hereby certifies that all information contained herein is true, accurate, and complete, to the best of my knowledge and belief’.

9. Contain the following statement: ‘The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.’





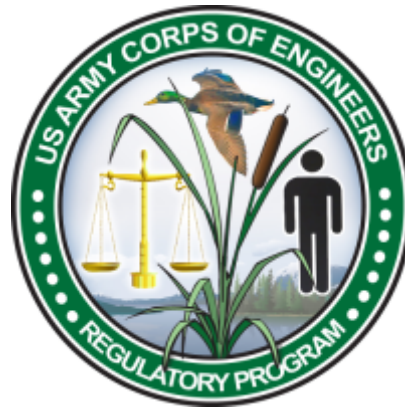
# 401 WATER QUALITY CERTIFICATION



- Include a copy of your 401 application with your Corps' application.
- Corps will contact the California Regional Water Quality Control Board about your submittal and the reasonable amount of time suggested for processing the 401 application submittal.
- Corps needs the 401 certification to issue its permit decision.



# MITIGATION PLAN AND/OR REPORT MAY BE REQUIRED





# MITIGATION



- ✓ Mitigation Banks.
- ✓ In-lieu Fee Program Credits.
- ✓ Permittee Responsible- Mitigation Under A Watershed Approach.
- ✓ Permittee Responsible- on-site and in-kind
- ✓ Permittee Responsible- off-site and/or out of kind





# QUESTIONS?

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

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