Arizona Department of Environmental Quality

Clean Water Act § 404 Assumption

Western States Water Council

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March 21, 2019

ADEQ Arizona Department of Environmental Quality

CWA Regulation in Arizona

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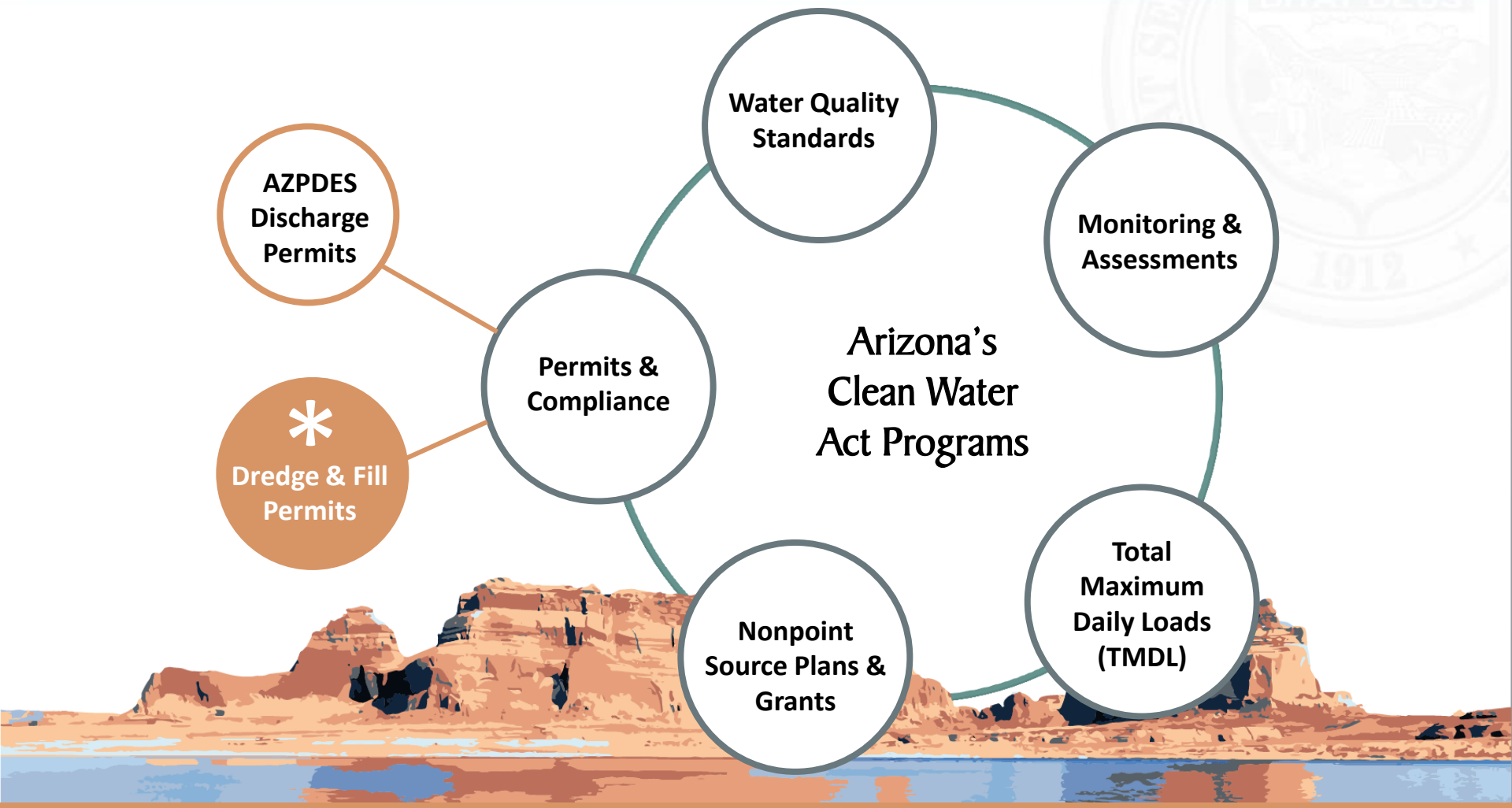


* Dredge and Fill permits are the only state assumable section of the Clean Water Act for which Arizona does not have primary authority

What is Clean Water Act § 404 Dredge and Fill?

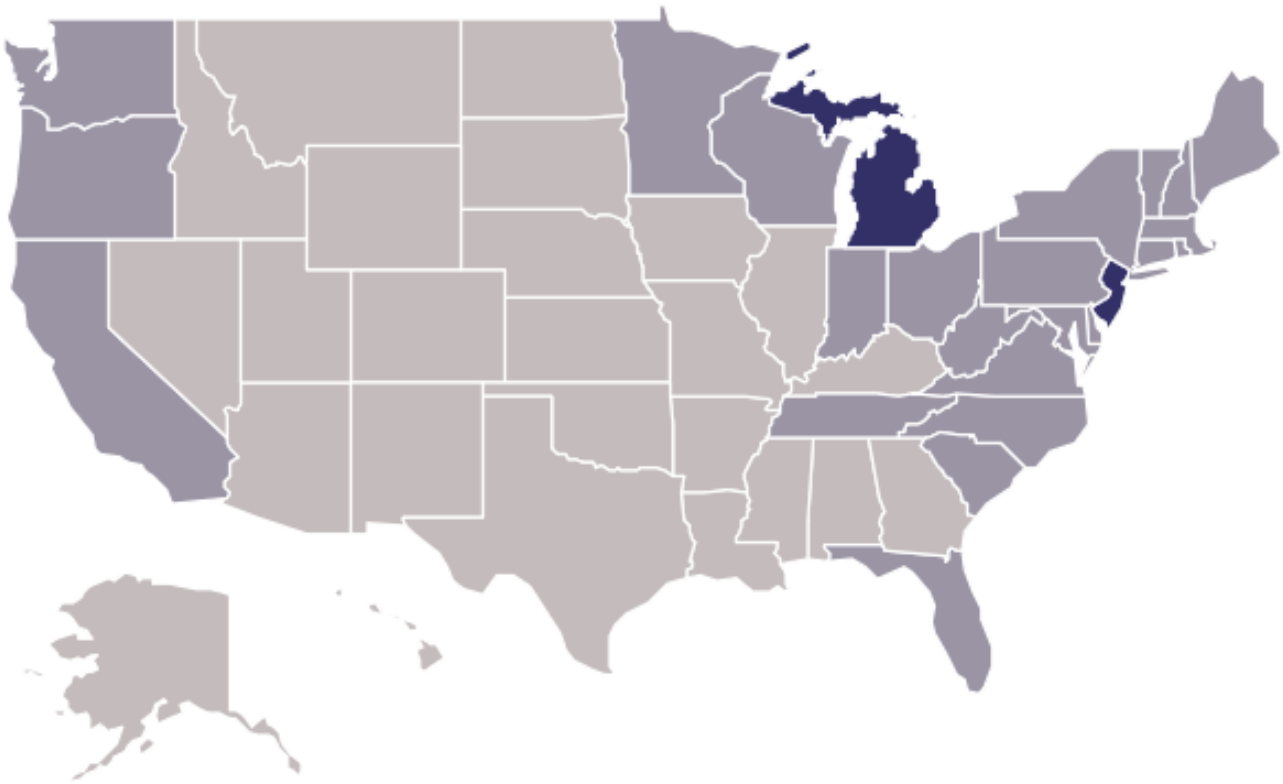
Section 404 of the Clean Water Act (CWA § 404):

- Establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands.
- Requires a permit before dredged or fill material may be discharged into waters of the United States

CAP Tonopah Desert Recharge Project
Source: AZTEC TYPSA Group

Soldier Wash downstream of Brewer Road
Source: Redrocknews.com

The National Picture



Corps-administered 404, no state wetland program regulating dredge and fill

Corps-administered 404 + state wetland program*

Full assumption of the 404 program

**may have State Programmatic General Permits to eliminate duplication between state wetland permits and 404 permits*

Why Assumption?

- More environmental protection for Waters of the US
- Clean Water Act program consistency
- Customer Value

Congressional Intent

"It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution …

***It is the policy of Congress that the States** …**implement the permit programs under sections** 1342 and **1344** [CWA § 404] **of this title.**"*

33 USC § 1251 (CWA § 101)

CWA 404 Assumption Process

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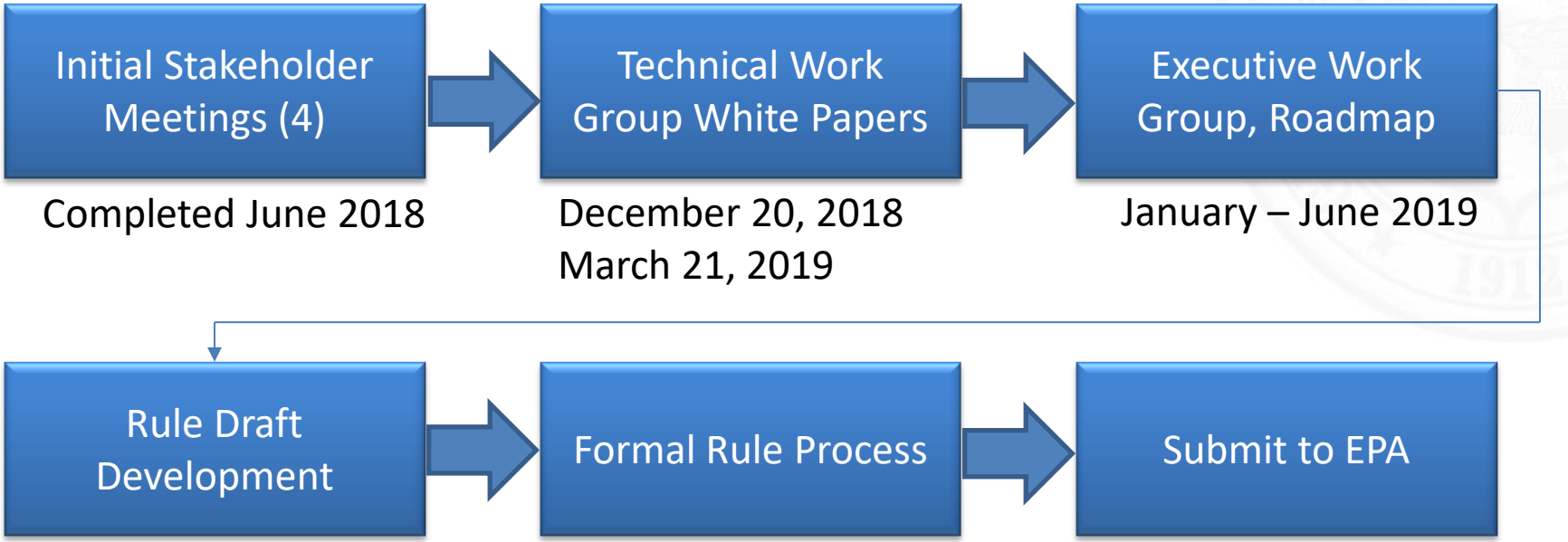
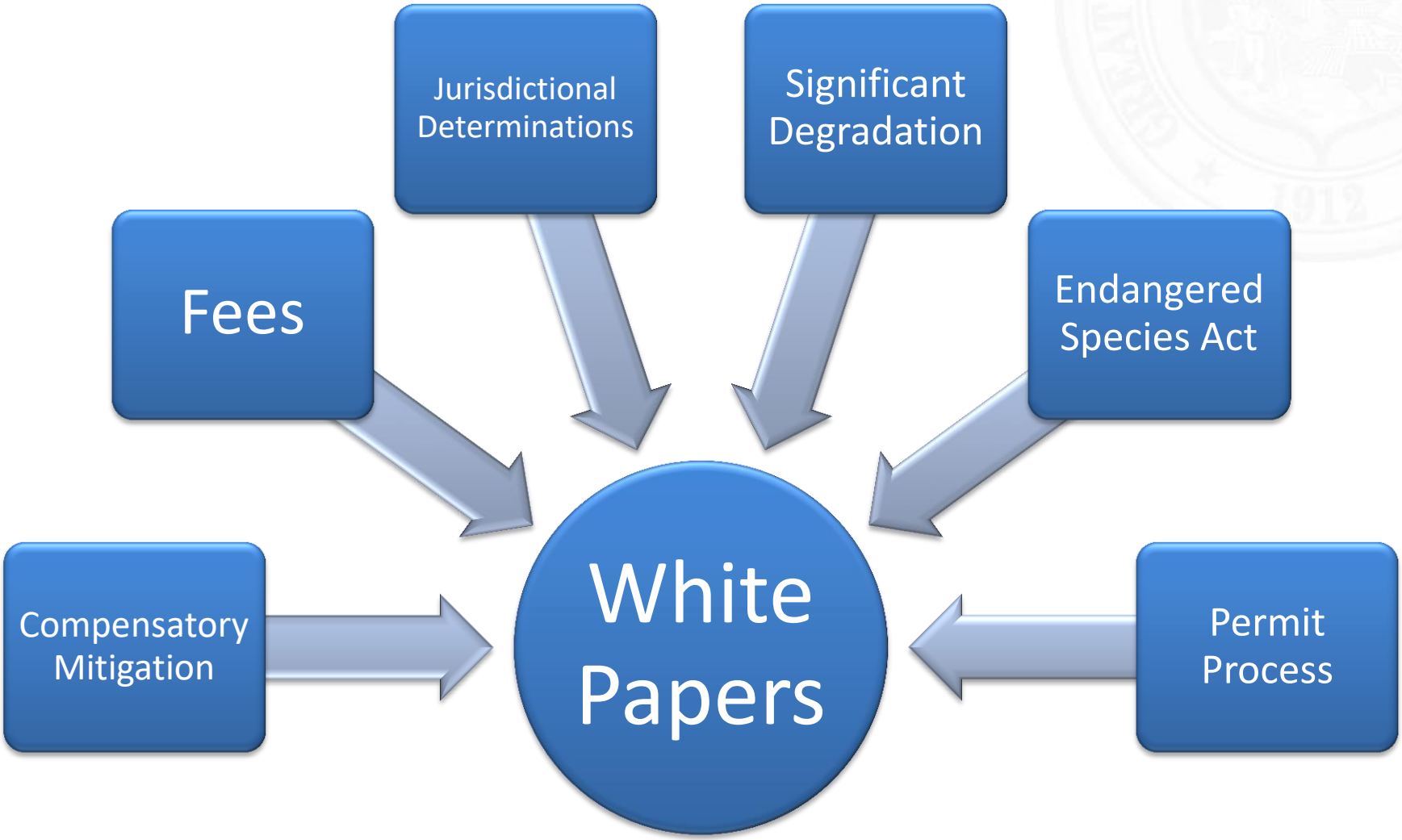
Next Steps: Proposed Process and Timeline



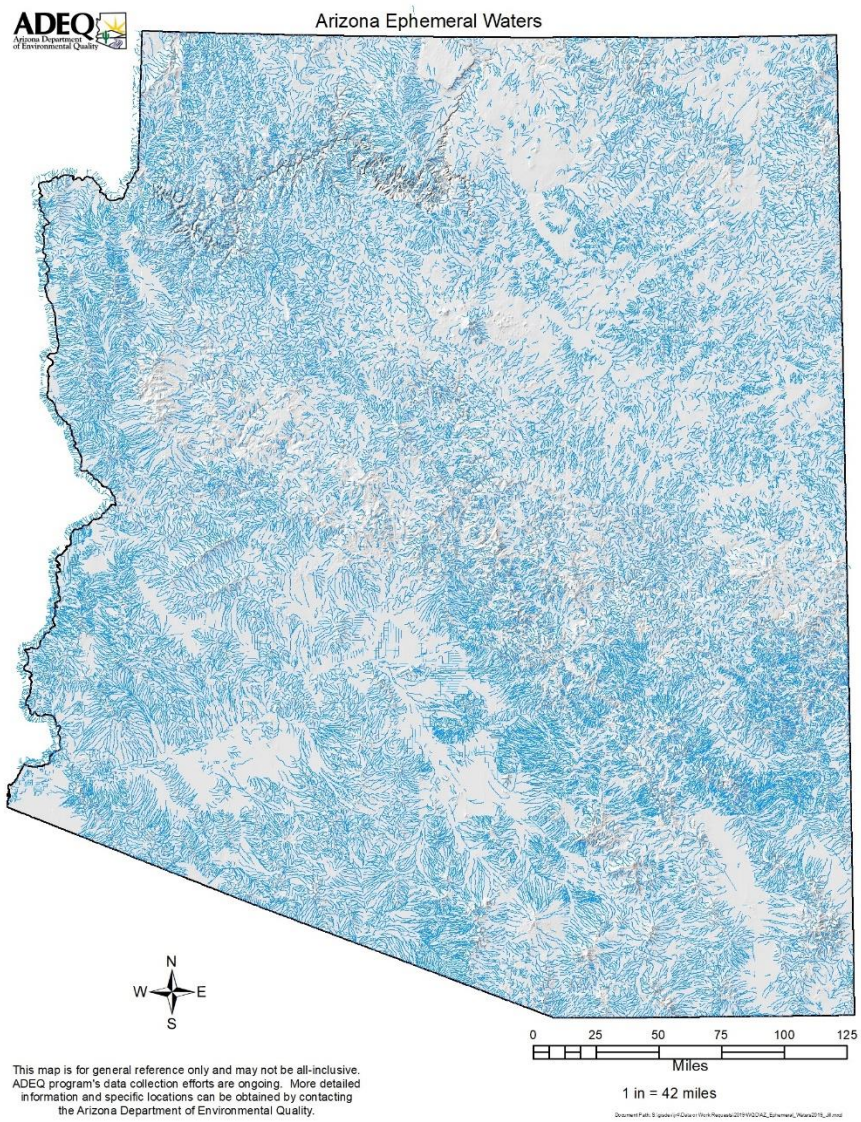
Concurrent Activities:

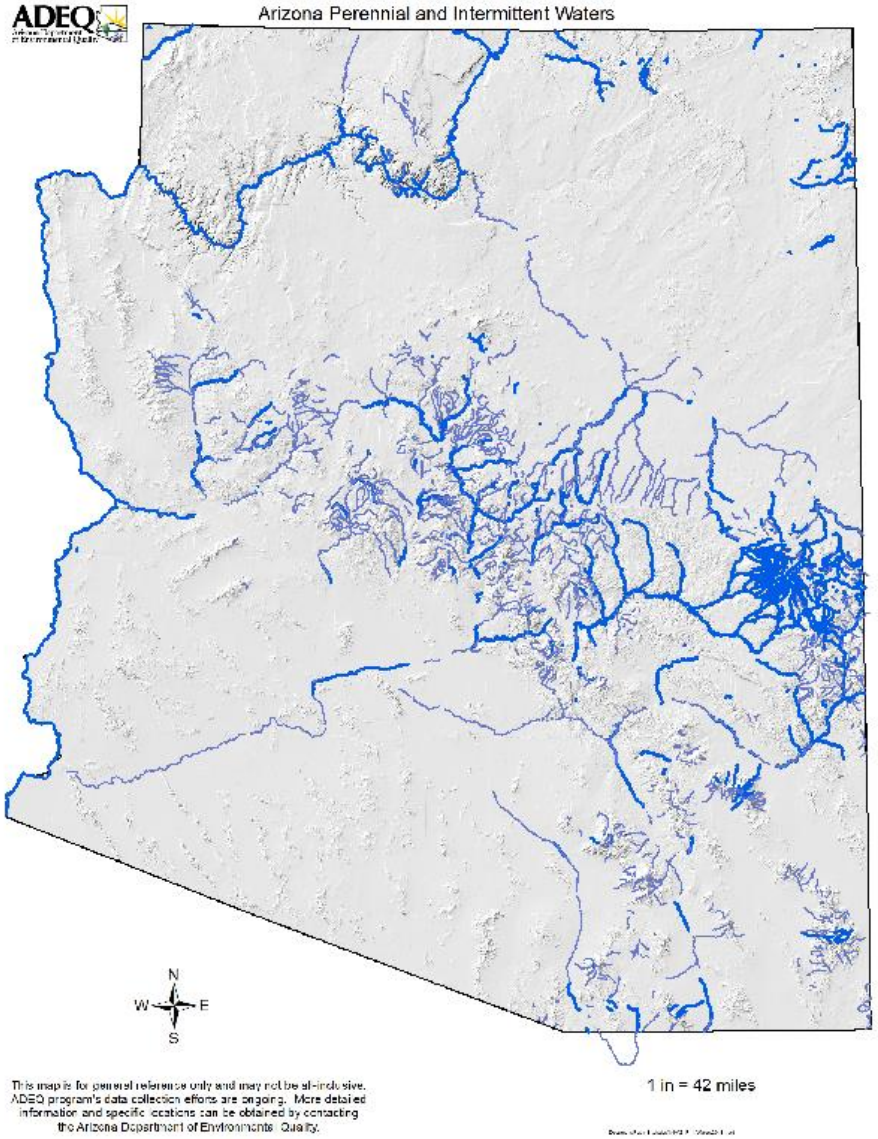
- Tribal Consultation Throughout
- Attorney General Coordination
- Agency(ies) Coordination/MOA(s)
- Program Description and Development

404 Workgroup Status



Arizona Waters





Contact for Trevor Baggiore

Water Quality Division Director:

TB4@azdeq.gov

Technical questions or issues for the 404 team?

Contact Heidi Welborn, David Lelsz, Leigh Padgitt

CWA404@azdeq.gov

More information regarding CWA 404 assumption can be found at:

http://azdeq.gov/cwa-404

Thank you!

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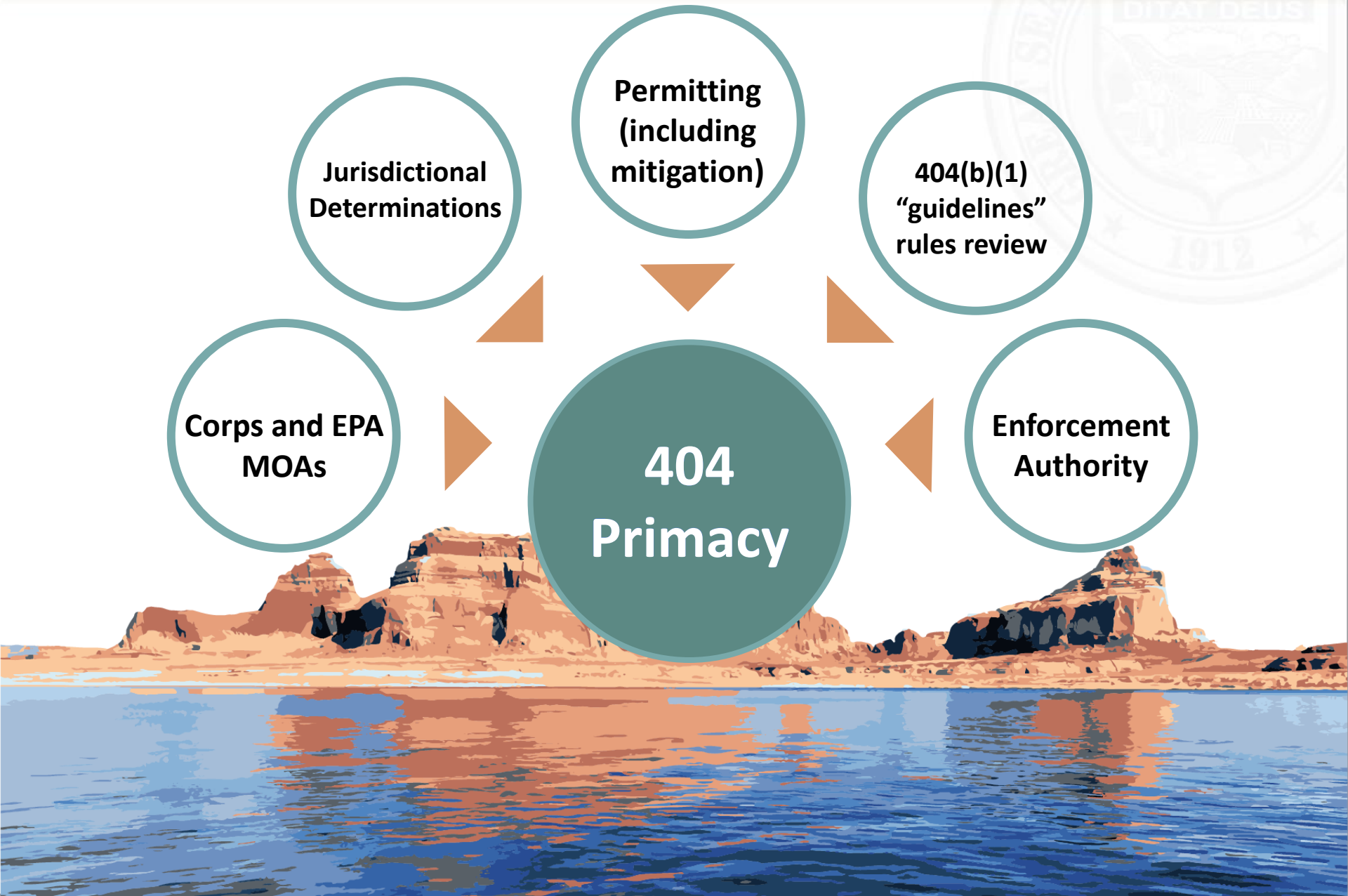
What does “Assumption” mean?

- Determine what waters are regulated under the Clean Water Act
- Prevent and mitigate impacts from dredge and fill activities in Waters of the United States in Arizona
- Assume primary responsibility to issue and deny dredge and fill permits, with EPA oversight

Section 10 waters (Colorado River)

Tribal Waters

404 Assumption Components



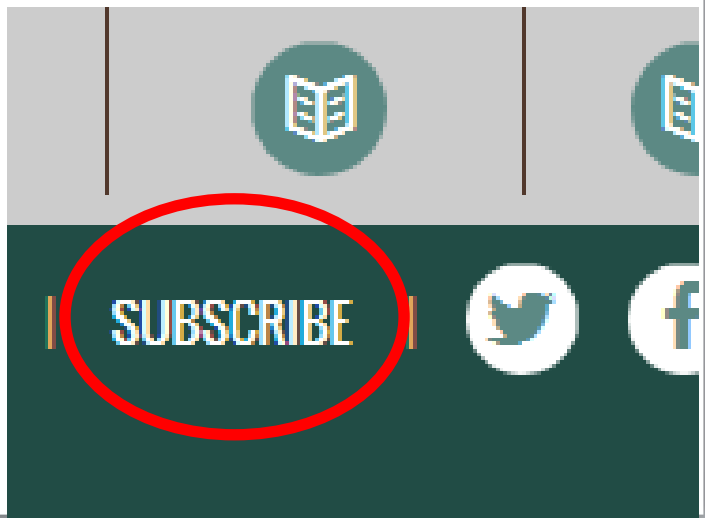
WOTUS

- ADQE held three stakeholder meetings
- ADEQ has committed to a stakeholder web conference once our comments are prepared
- Unless an extension is granted, comments must be submitted to EPA by April 15, 2019

Stakeholder Meetings and Announcements

- To subscribe to ADEQ announcements via GovDelivery, click “subscribe” on bottom right of the ADEQ home page

- Subscribe specifically to the “CWA 404 Stakeholder Communications” list



Remaining 404 Workgroup/White Papers

Cultural and Historic Preservation

- Will remain constituted to assist with our work on the Tribal Nations Workgroup

Tribal Nations

- First met on January 15, 2019
- Next meeting scheduled for March 25, 2019

Executive Work Group

- Jurisdictional Determinations
- Significant Degradation
- Compensatory Mitigation