

Cultural Resource Protection Summit

May 23-24, 2011

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Cultural Resource
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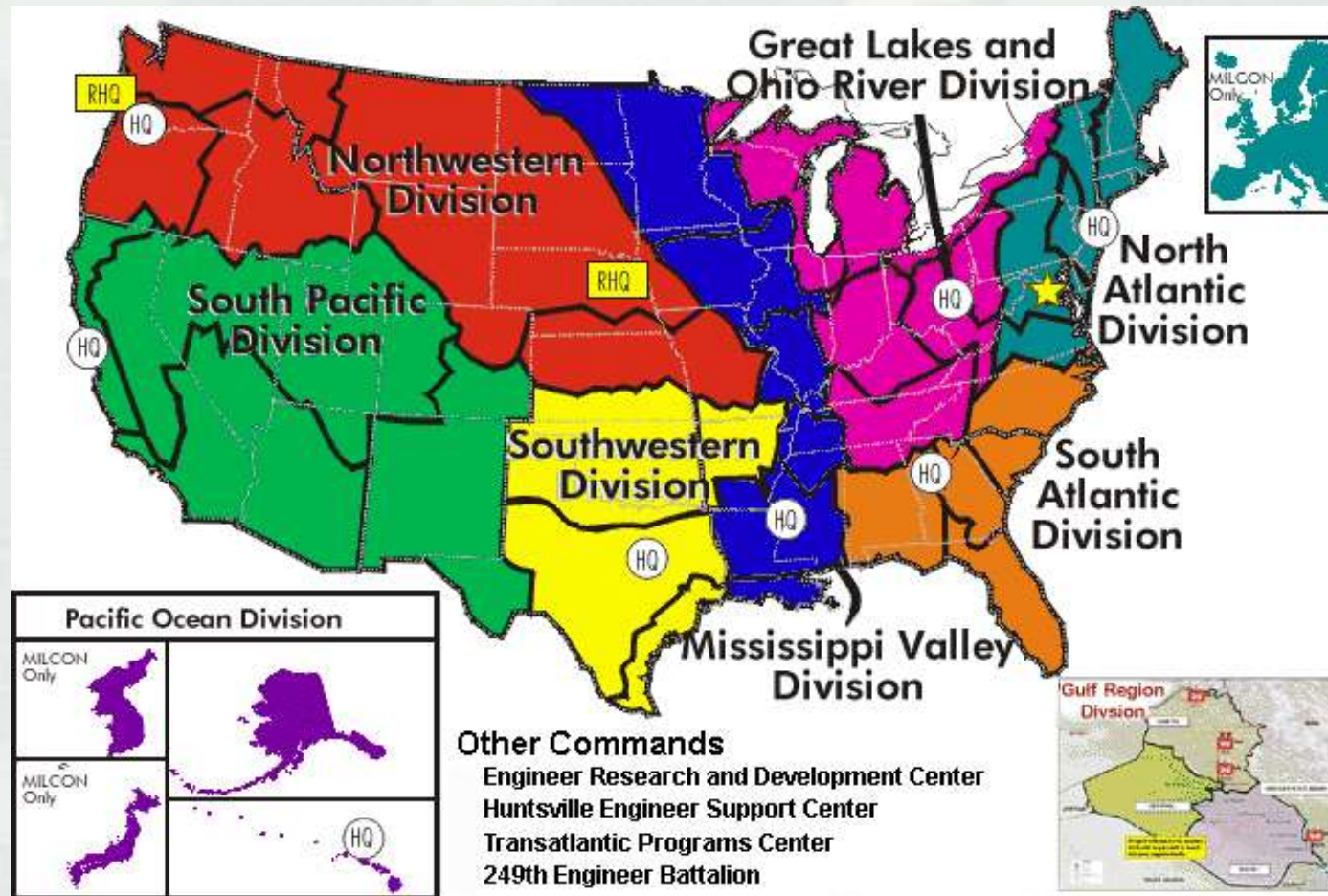
Tribal Liaison



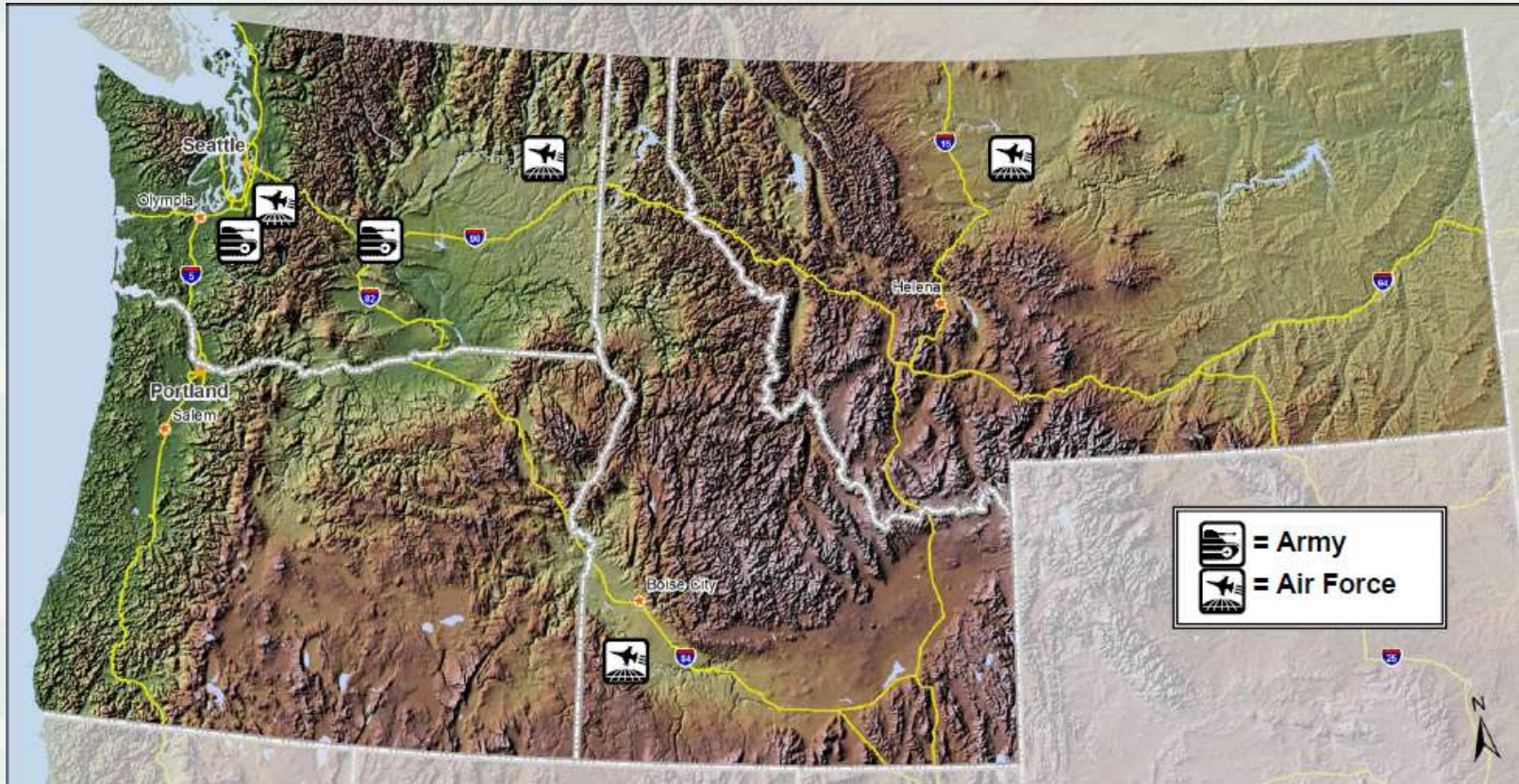
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US Army Corp of Engineers



Seattle District (Military Boundaries)

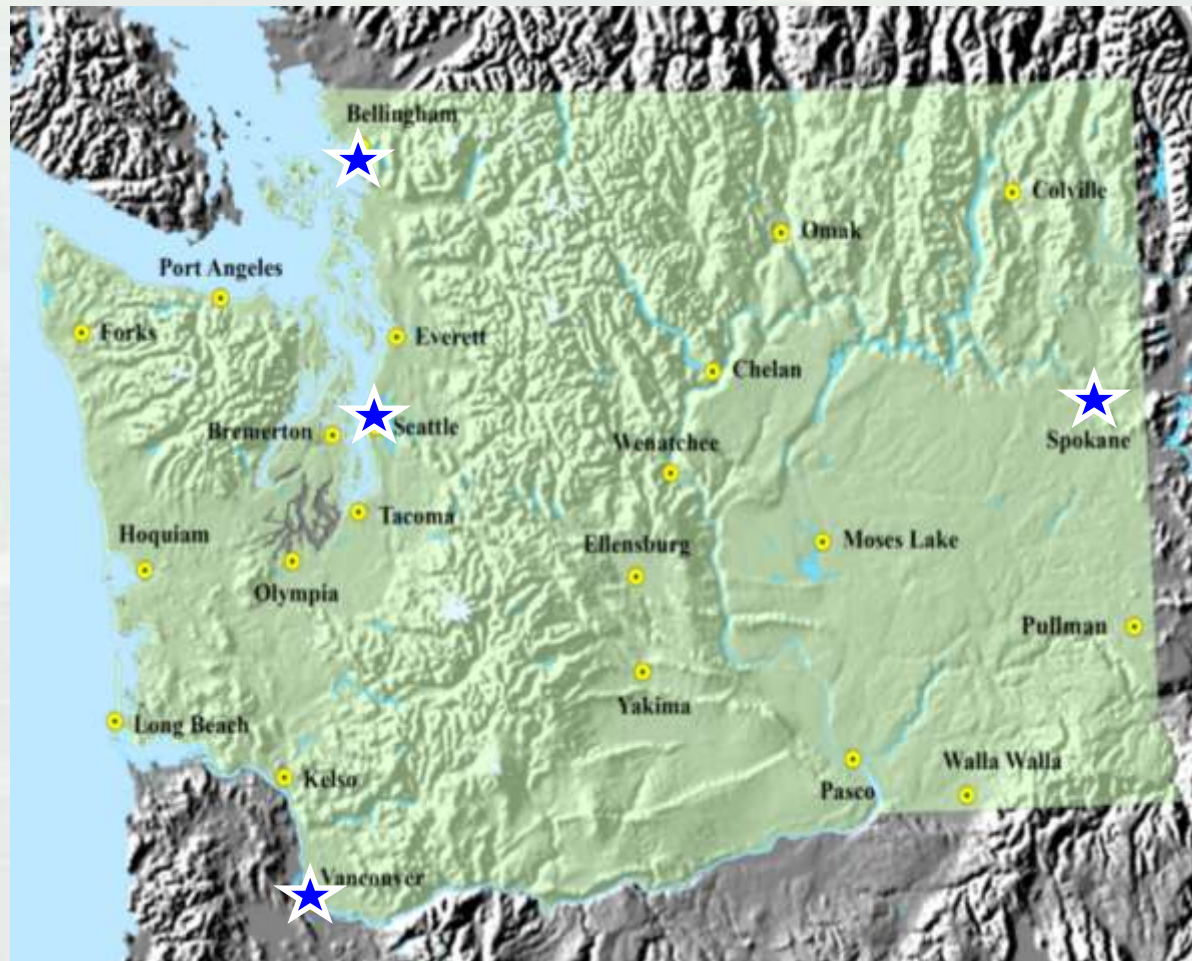


Seattle District (Civil Works Boundaries)



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Seattle District (Regulatory Boundaries)



Seattle District Organization



USACE

Tribal Policy Principles

- Meet the Trust responsibility;
- Honor the government-to-government relationship;
- Acknowledge the inherent sovereignty of Tribes;
- Engage in pre-decisional consultation;
- Protect natural and cultural resources when possible, and
- Find opportunities to use existing authorities to encourage economic capacity building and growth.



Tribal Trust Responsibilities

- **Duty to protect** resources and rights reserved by tribes
- **Obligation to inform, coordinate and consult** with tribes prior to making or taking actions that have the potential to affect tribal rights or interests



Section 106 Compliance

- **Civil Works/Environmental/Operations & Military Projects**

36 CFR 800

- **Regulatory Projects**

36 CFR 800 & 32 CFR 325 Appendix C



Section 106 Compliance

Key Differences

CW/EM/Military

Determined in
Consultation with
SHPO/THPO

&

Consulting Parties

Undertaking

Area of
Potential
Effects

Regulatory

Defined in
App. C

Permit Area



General Investigation Program



Overall Section 106 Compliance 36 CFR 800

- How we manage cultural resources in our project areas:
- Reconnaissance
- Feasibility
- Pre-construction, Engineering and Design
- Construction



Regulatory Department of the Army Permits ("Corps" Permit)

- Section 10 of the Rivers and Harbors Act (1899)
- Section 404 of the Clean Water Act (1972)
- Section 103 of the Marine Protection Research and Sanctuaries Act (1972)



Section 10 of the Rivers and Harbors Act of 1899

- To protect and preserve the navigability of **navigable waters**
- Requires obtaining a permit from the Regulatory Branch for any structure or work in a **navigable water of the U.S.**



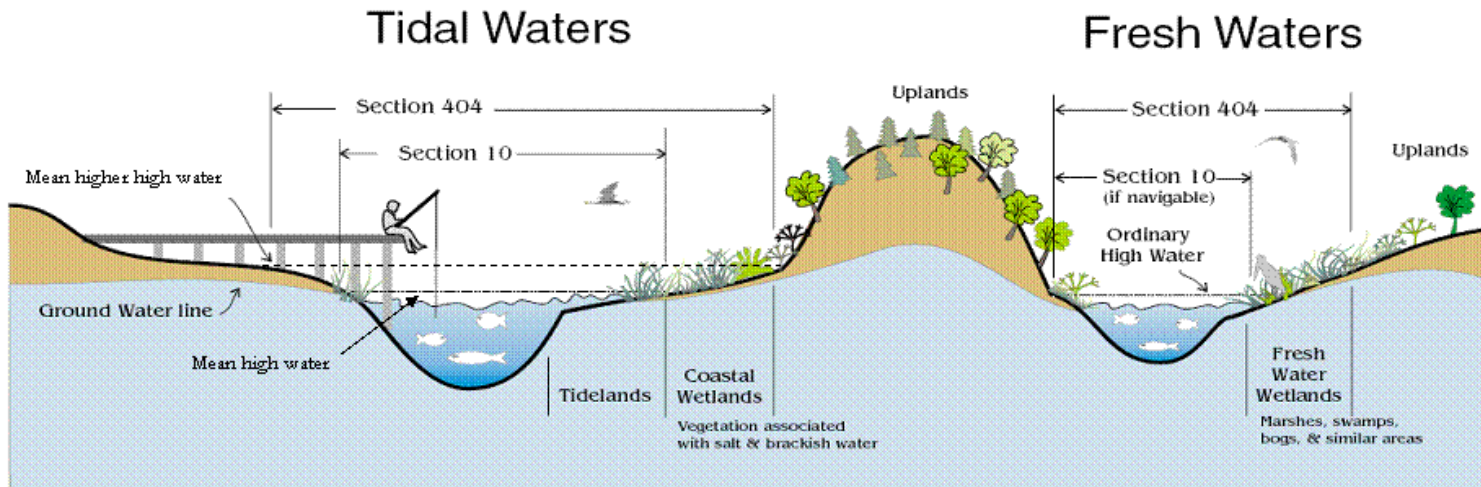
Section 404 of the Clean Water Act

- To restore and maintain the chemical, physical and biological integrity of the **waters of the U.S.**
- Requires obtaining a permit from the Regulatory Branch for the discharge of dredged or fill material in any **water of the U.S.**



Jurisdictional Boundaries

CORPS OF ENGINEERS REGULATORY JURISDICTION



Typical examples
of regulated activities

Section 103 Ocean Discharge of Dredged Material

Ocean discharges of
dredged material

Section 404 Disposal 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.



Key Regulatory Principles

- District Engineers make permit decisions
- Corps is neither a proponent nor an opponent of projects
- Balanced, transparent, multi-perspective, reasonable, and timely permit decisions constitute sound public service
- Corps holds the line on no net loss to wetlands
- Corps works with applicants to avoid and minimize impacts to aquatic and cultural resources



NHPA Compliance

- Corps is responsible for 106 compliance of the permit area
- Corps uses 33 CFR 325, Appendix C and Interim Guidance letters
- The DE will take into account the effects of the undertakings on historic properties both within and BEYOND waters of the U.S.
- Corps consults with SHPO/THPO and tribes
- Corps will generally defer to Lead Federal Agencies



Permit Area

- Often coincides with APE used by other agencies but it can differ.
- Tied to waters of the U.S. and uplands directly affected by the permitted activity.
- Limits Corps' responsibility to investigate and identify historic properties



Permit Area

The definition of the permit area has **three tests**:

1. Activity would not occur *but for* the authorization of the work or structures within the waters of the U.S.
2. Activity must be *integrally related* to the work or structures to be authorized within waters of the U.S.
3. Activity must be *directly associated* (first order impact) with the work or structures to be authorized.



Cultural Resource Assessment

- Primary purpose is to identify Historic Properties
- Determine NRHP eligibility of recorded sites.



Cultural Resource Assessment

What do we want?



Mitigation of Adverse Effects

Avoid
Minimize
Mitigate



Nationwide Permit Renewal Update

- Two new permits
- 60 day review completed April 8, 2011
- Tribal comments
- Contacts:
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Kristina.G.Tong@usace.army.mil
 - Jacalen Printz 206-764-6901
Jacalen.M.Printz@usace.army.mil



USACE/Tribal Partnership

Support, coordinate and partner with:

- 29 Tribes in WA
- 3 Tribes in OR
- 4 Tribes in ID
- 6 Tribes in MT



USACE Obligations

- Treaty rights and land use
- Economic self-sufficiency
- Tribal fisheries habitat
- Protection of archeological sites
- Protection of sacred sites
- Repatriation of Native American human remains



Questions/Discussion?



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