

# Cultural Resource Protection Summit

May 23-24, 2011

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Cultural Resource  
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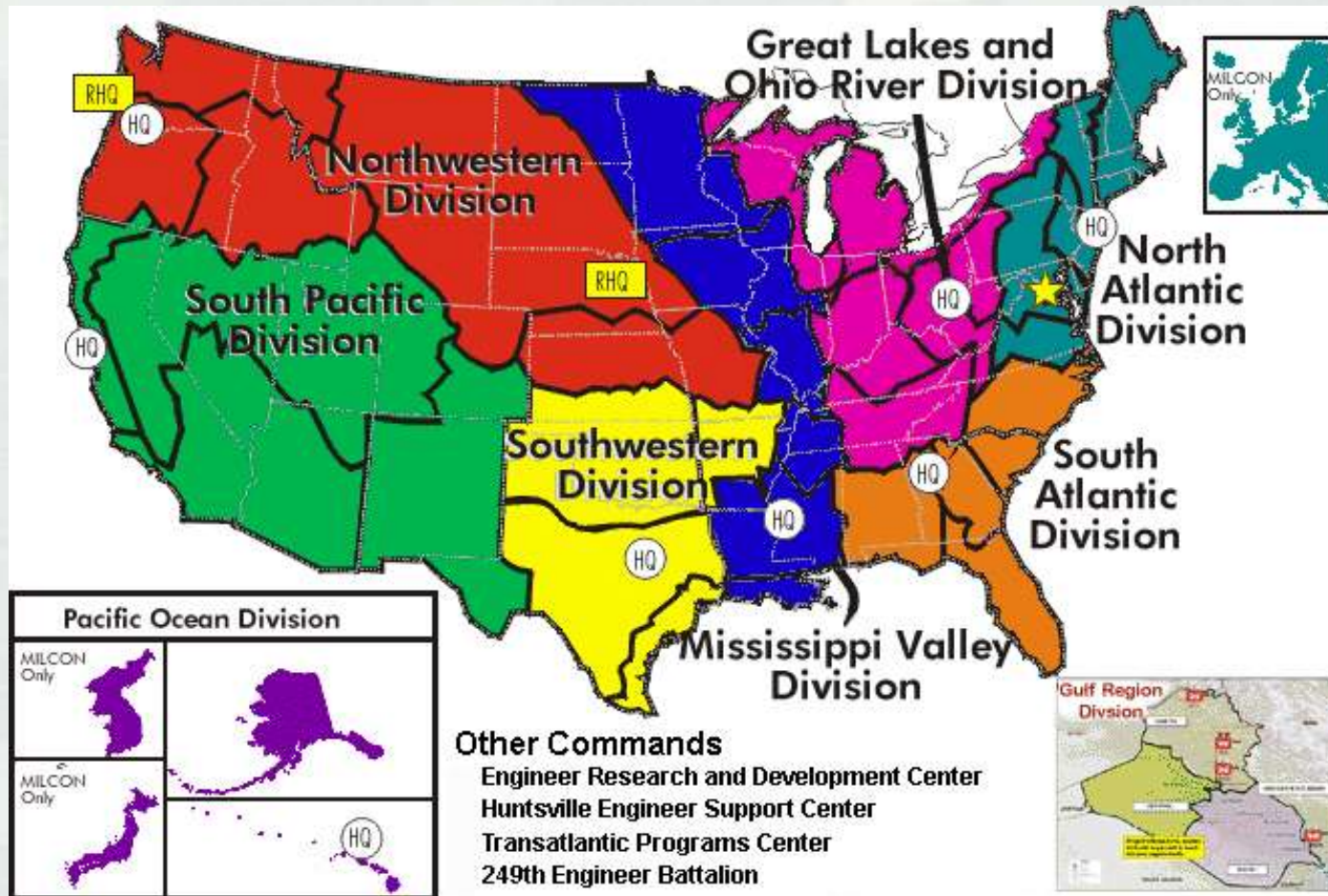
Tribal Liaison



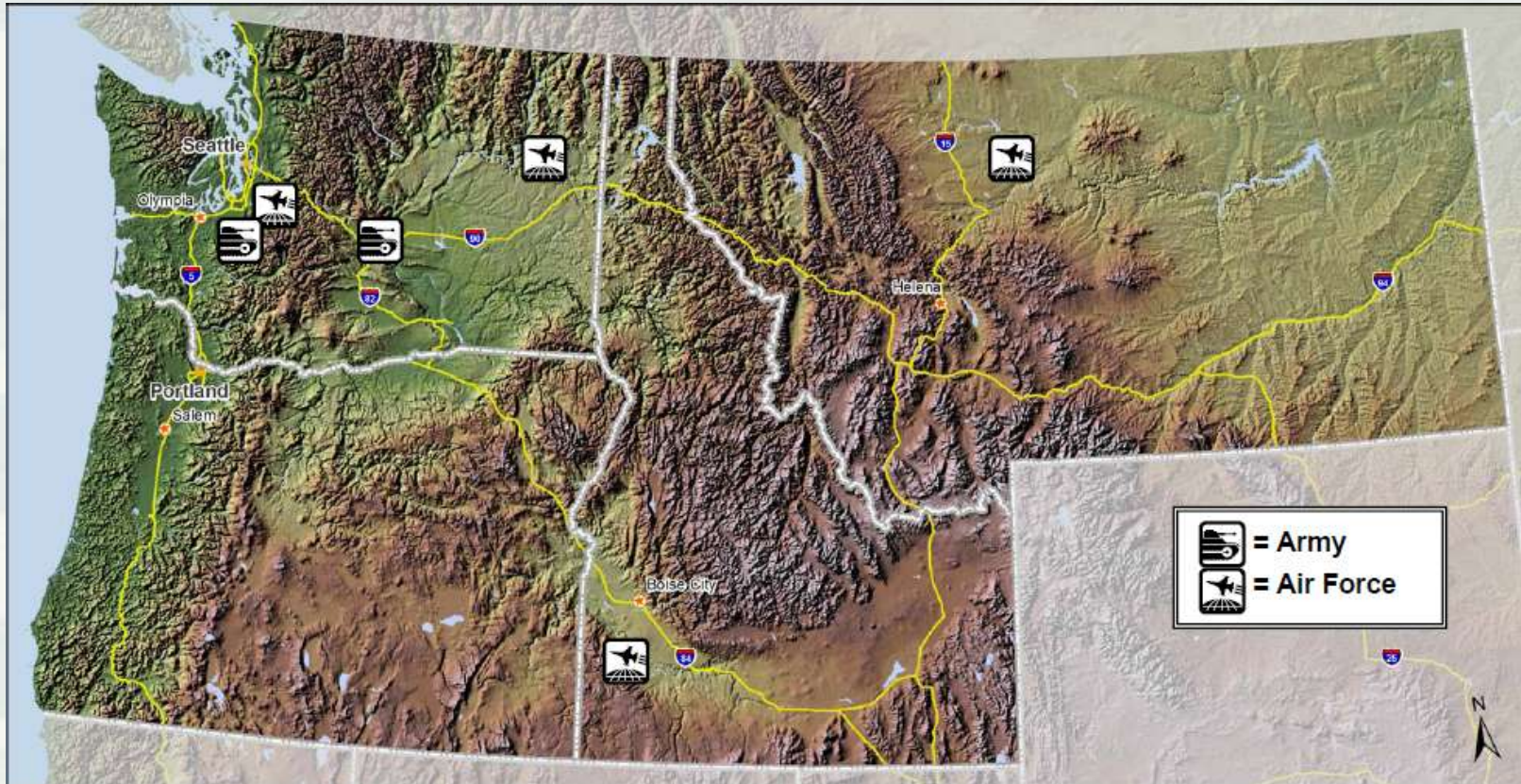
US Army Corps of Engineers  
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# US Army Corp of Engineers



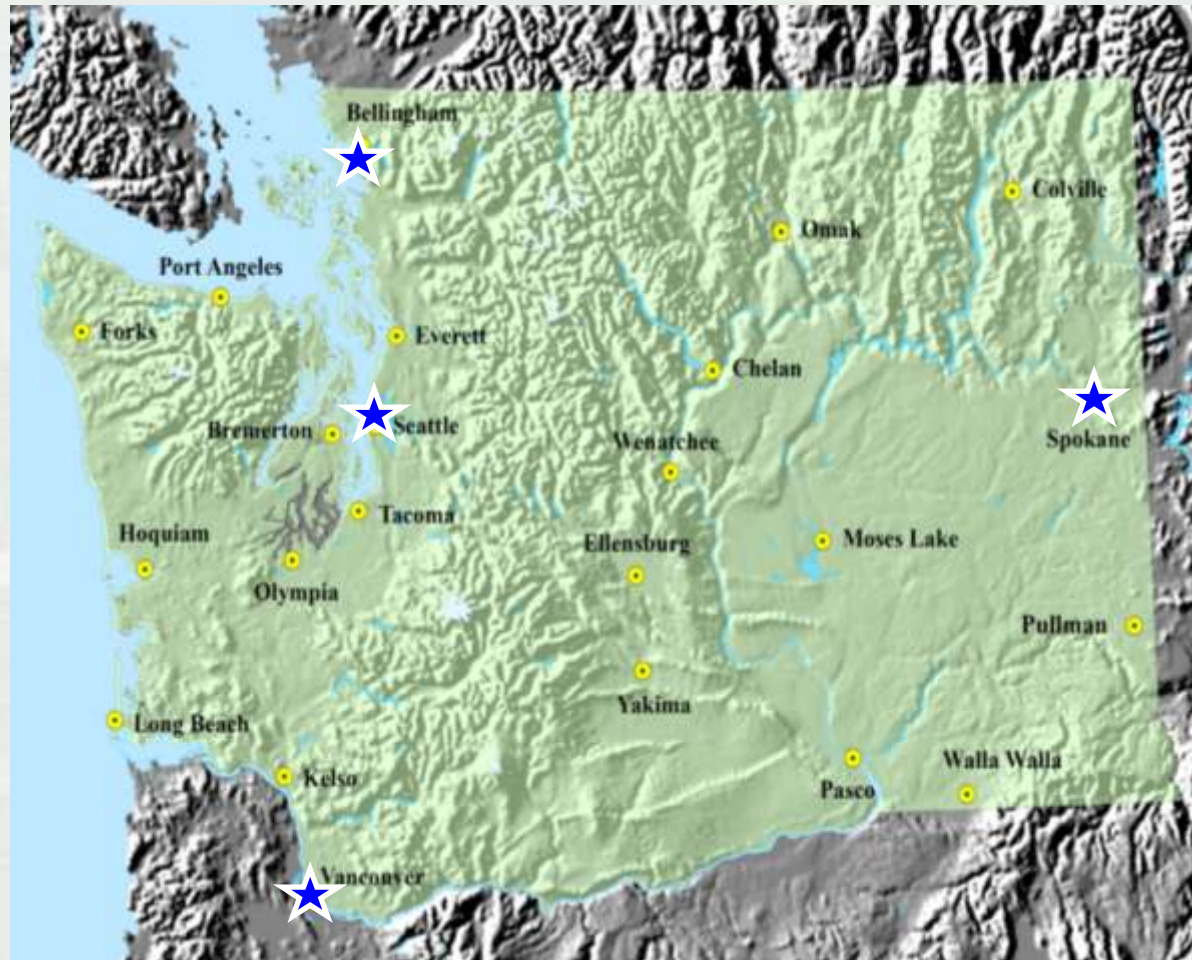
# Seattle District (Military Boundaries)



# Seattle District (Civil Works Boundaries)

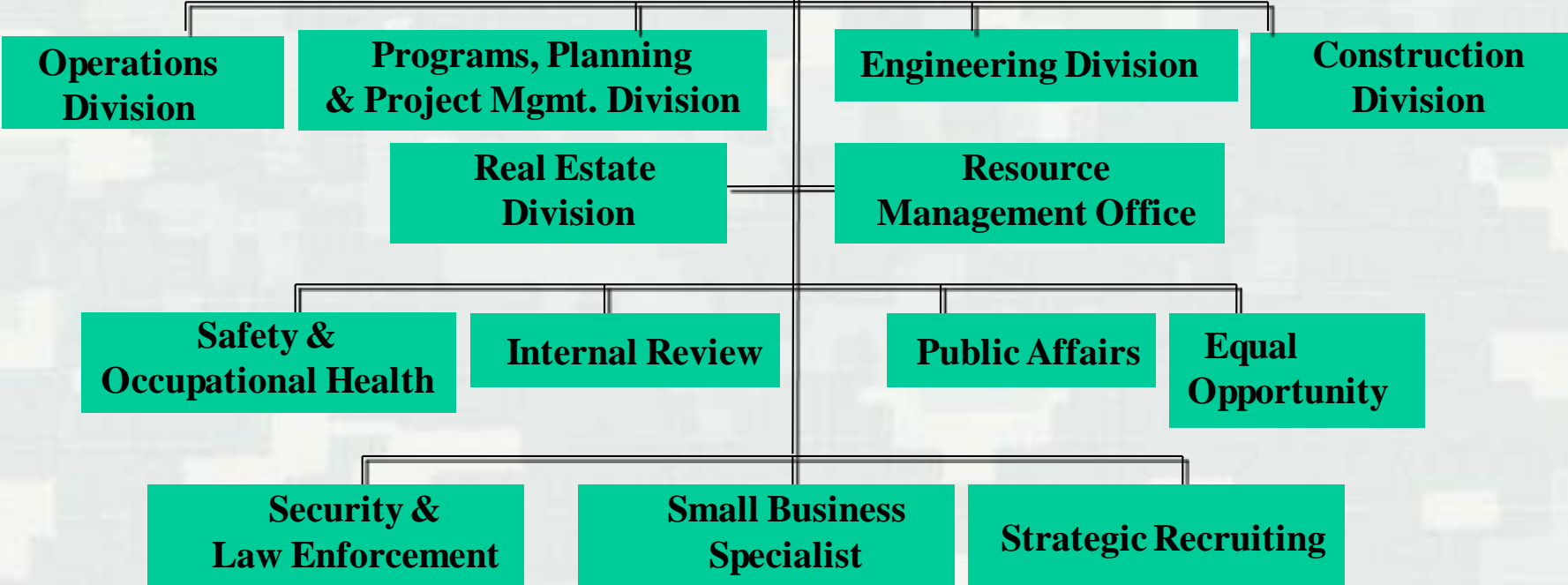


# Seattle District (Regulatory Boundaries)



# Seattle District Organization

**Executive Office**



**NATIONAL**



# 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.**



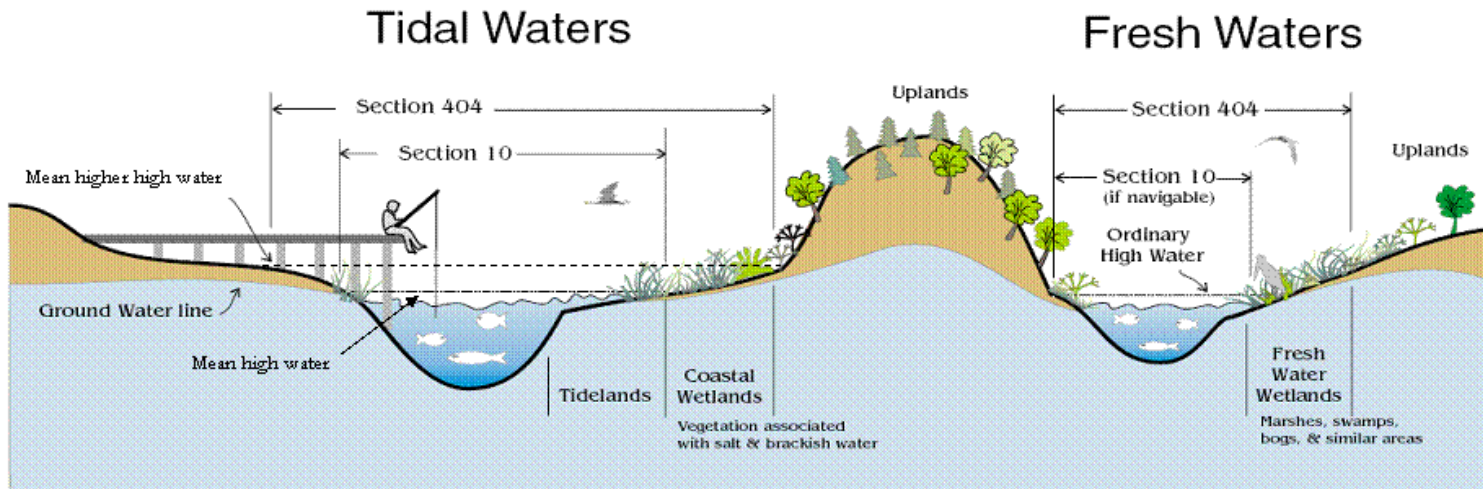
# Section 404 of the Clean Water Act

- 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:
  - Tina Tong 206-764-6913  
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?



# Contact Information

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