

PROJECT DELIVERY ACADEMY

ENVIRONMENTAL CLEARANCE

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WHAT IS AN ENVIRONMENTAL CLEARANCE?

- ❑ Environmental clearance means the project impacts have been reviewed under all applicable environmental requirements and the project is “cleared” for construction
- ❑ ADOT Environmental *Clearance*
 - Required to advertise for construction (Final Step)
- ❑ Federal Environmental *Approval*
 - Required for Federal Highway Administration (FHWA) funding for Design, Right-of-Way and Construction



WHY WE NEED AN ENVIRONMENTAL CLEARANCE

ADOT Involvement with the Federal-aid Highway Program

- ❑ Federal Highway Administration (FHWA)
 - ❑ Federal Funding (design/construction/right-of-way)
 - ❑ Right-of-Way of Federal Lands



ADOT ENVIRONMENTAL PLANNING

Environmental Planning (Transportation Division)

- Environmental Planners (Environmental Project Managers)
- Air Quality specialists
- Noise Technical Expert
- Archaeologists
- Biologists
- Wetland Biologist (permitting)
- Hazardous Materials Specialists
- Water Resources (stormwater permits)
- Tribal Liaison

ENVIRONMENTAL REQUIREMENTS

Environmental Requirements Hierarchy

- Law: United States Code (U.S.C.)
- Regulations: Code of Federal Regulations (CRF)
- FHWA Policy
- FHWA Formal Guidance
- ADOT Guidance

ENVIRONMENTAL REQUIREMENTS

Federal and State Environmental Laws and Regulations

- ❑ The over-arching environmental law
 - **National Environmental Policy Act (NEPA)**
- ❑ NEPA requires the federal government (FHWA) to consider the environment in major federal “actions”
- ❑ “Environmental review” includes all *other applicable environmental laws*

NEPA – Environmental Law



Title VI of Civil Rights Act of 1964
Executive Order 12898 (Environmental Justice)
23 USC Section 109 (Standards)
Clean Water Act (CWA)
Clean Air Act (CAA)
National Historic Preservation Act (NHPA)
Endangered Species Act (ESA)

NEPA – Framework for all other relevant laws

US DOT Act – Section 4(f)
23 CFR 772 (Noise)
Comprehensive Environmental Response, Compensation and Liability Act (CERLA)
Safe Water Drinking Act (SWDA)
Public Hearing Requirements
Archaeological and Historic Preservation Act (AHPA)

ASSIGNMENT OF FHWA ENVIRONMENTAL RESPONSIBILITY

- FHWA's environmental responsibilities have been assigned to ADOT by agreement
 - An assignment of legal responsibility
 - ADOT acts as the “lead federal agency” and is the “decision-maker” in the federal environmental review process
- CE Assignment and NEPA Assignment
 - “CE Assignment” – 326 MOU
 - “NEPA Assignment” – 327 MOU

TYPES OF NEPA APPROVAL

Class of Action

- ❑ **Environmental Impact Statement (EIS)**
 - Impacts are significant (South Mountain)

- ❑ **Environmental Assessment (EA)**
 - Significance of impacts not clearly known (Expansion projects)

- ❑ **Categorical Exclusion (CE) – Focus of this training**
 - Impacts not significant (majority of ADOT and LPA projects)
 - Match the project description to the description of the CE listed in the regulations
 - CEs exclude formal requirements of an EIS or an EA

ENVIRONMENTAL IMPACT STATEMENT



South Mountain Freeway

Many formal requirements such as alternatives and their impacts need to be studied

Can take several years and significant funds to complete an EIS

ENVIRONMENTAL ASSESSMENT



US 93 Two Lanes to Four Lanes

Alternatives developed and screened and a Build and No Build evaluated

Can still take several years and significant funds to complete

Categorical Exclusions

- ❑ Match the general project description to the to the type of project and descriptions listed in the regulations to determine the applicable CE

Pathways



Preservation



Bridges



Capacity

Safety



Categorical Exclusions

- ❑ By regulation, CEs require the consideration “unusual circumstances.”
- ❑ For nearly all projects, consideration for one of the “other” environmental laws under the “NEPA umbrella” is most likely to be the critical path in the preparation of a CE.



The “Other” environmental laws

For most projects the other environmental laws under the “NEPA umbrella” are most likely to be the critical path in the preparation of CEs:

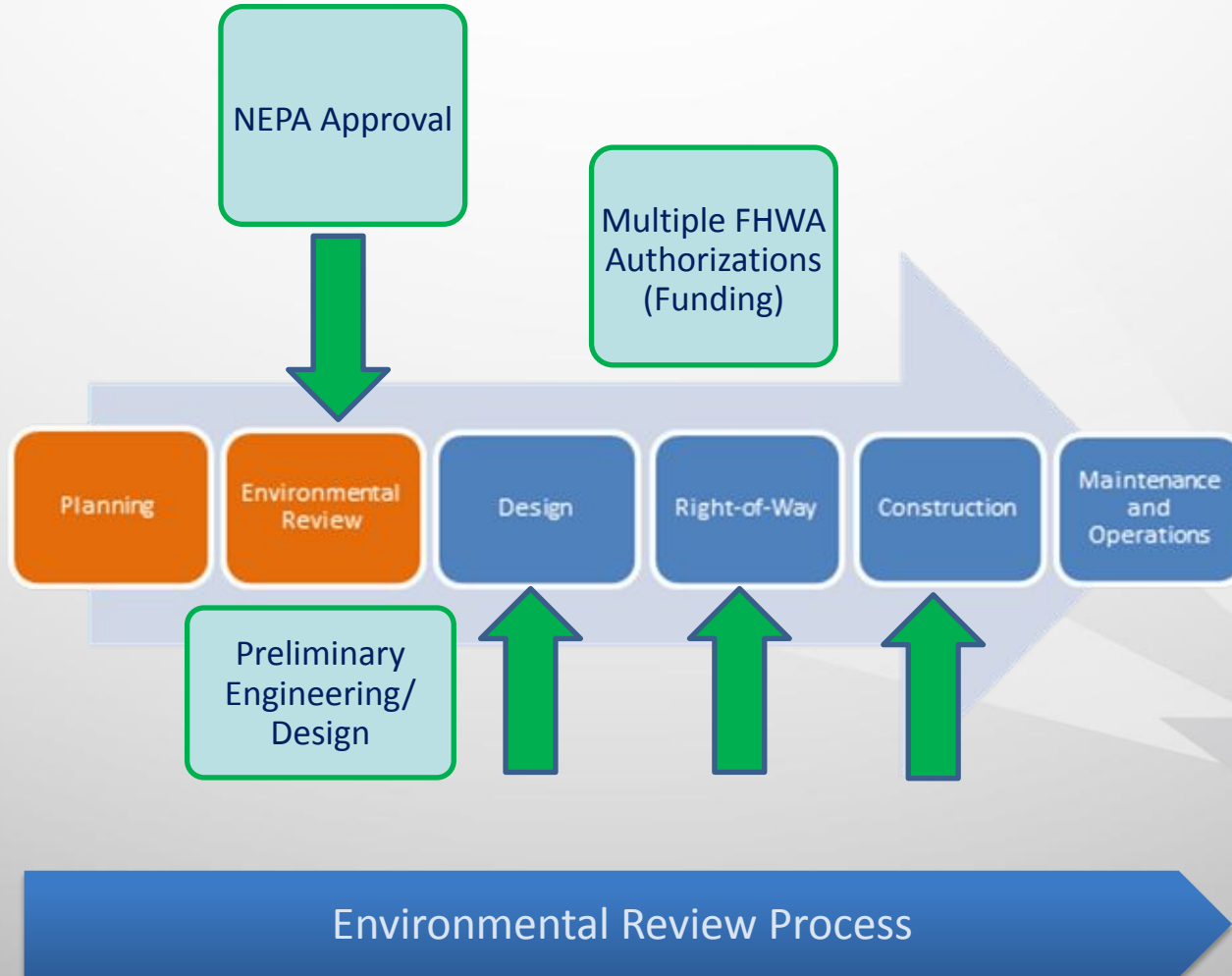
- Section 4(f) – Parks, Historic Properties, Wildlife Refuges
- National Historic Preservation Act
- Clean Water Act – Army Corps Individual Permit
- Endangered Species Act – Biology
- Clean Air Act – conformity determinations

Environmental Clearance

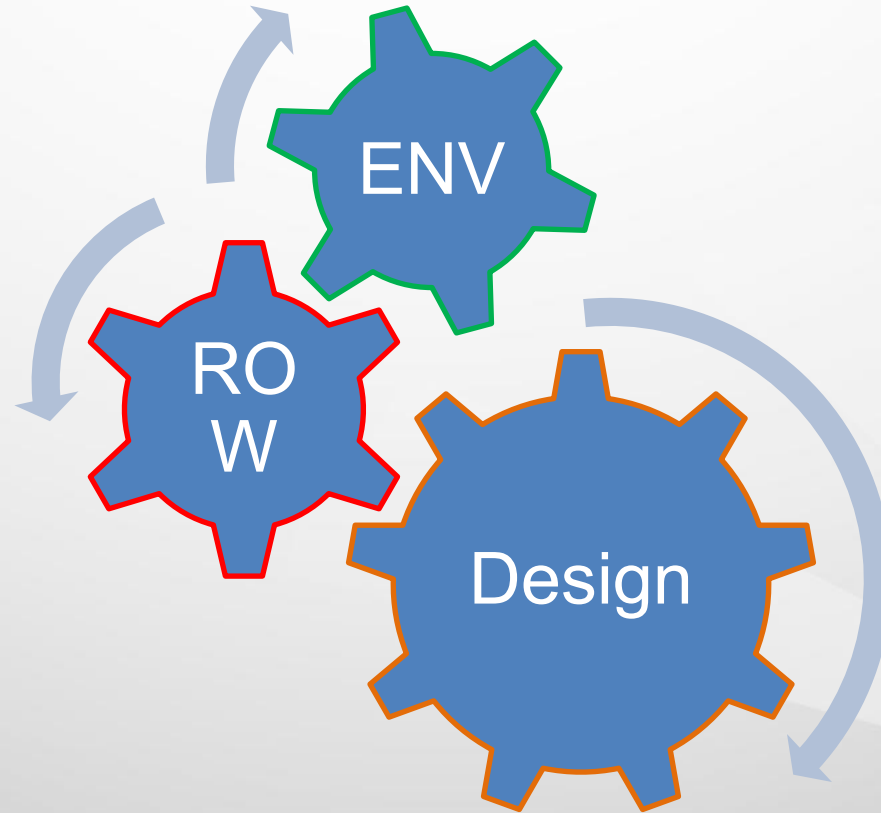
Environmental “footprint” cleared

- The project as described; “paving” not a bridge
- Milepost limits; “from here to there”
- “Project footprint” as described including new right-of-way (permanent or temporary)
- Scope of work items described within those limits and as outlined in the design plans
- Constraints within the limits including avoidance areas or areas requiring a monitor during construction
- The sum total of all work described above in compliance with each individual law/regulation as applicable

Environmental in the Project Development Process



Engineering and Environmental is an integrated process



Think holistically of how project development components all interrelate

Environmental considerations need to happen throughout the project development process

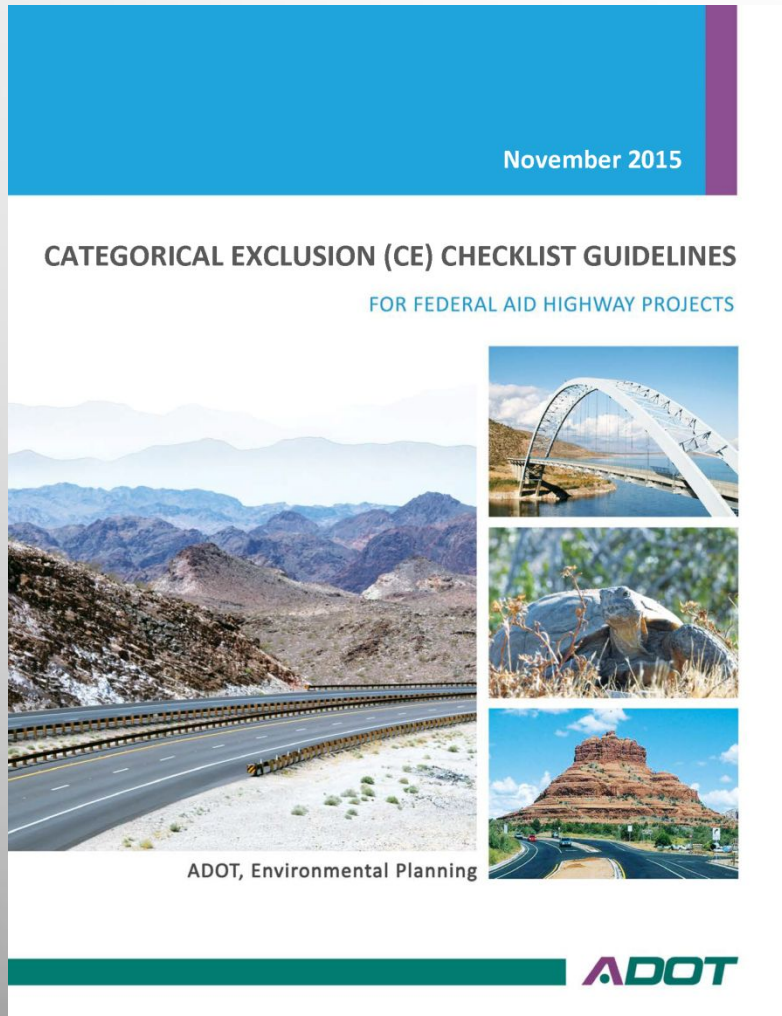
COORDINATION

- Communicate changes quickly
- 100% footprint for ENV & ROW at 60% Design
- Identify ROW and (TCEs) early in Design
- Identify land ownership and associated requirements
- Identify scope such as geotechnical work early
- Get funding in place quickly for additional work added to the project

SCHEDULE

- ❑ Complexity of project
 - CE – 3 to 12 months
 - EA – 1 to 3 years
 - EIS – 3 to 5+ years [new 2-year timeline]
- ❑ Agency consultation and review timelines are critical to project schedules

Categorical Exclusions



❖ CE Checklist

- The “CE” is environmental review documentation and federal approval for NEPA compliance
- The ADOT CE Checklist Manual provides step-by-step instruction on completing the CE checklist
- The CE Checklist itself is a streamlined documentation format
 - Utilizes drop-down menus (little writing)
- It is “NEPA approval” but acknowledges compliance with all environmental review requirements for a project

Categorical Exclusions

- CE based on the project (from TIP/engineering scoping)
- Project Information (Data, location, limits and description)
- ADOT ENV Planner completes the CE Checklist based on all Project Information and technical reviews completed
- CE type selection
- A series of drop-down menu selections are used to document relevant environmental concerns

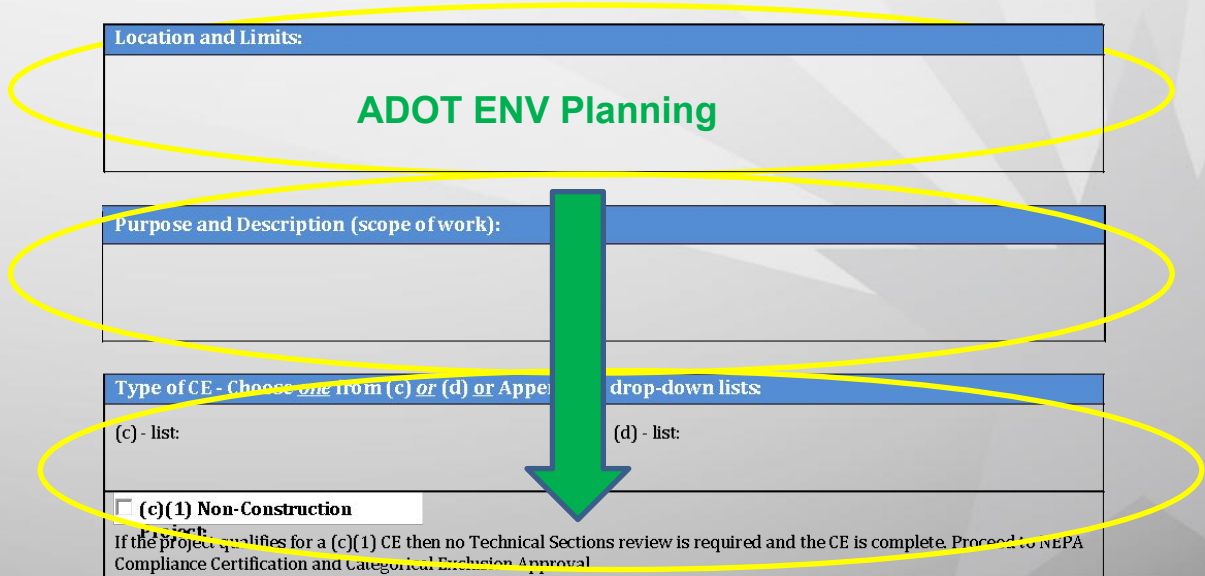
Project Information:	
Project Name:	Construction Project Administration
ADOT Project Number:	<input type="checkbox"/> ADOT <input type="checkbox"/> CA Agency <input type="checkbox"/>
Federal-Aid Number:	Categorical Exclusion Approval for FMIS
Estimated Project Construction Cost:	2A - (c) Listed <input type="checkbox"/>
Planning Requirements:	2B - (d) Listed <input type="checkbox"/>
<input type="checkbox"/> STIP/Line Item	2C - (d) Unlisted <input type="checkbox"/>
<input type="checkbox"/> ADOT Sub-program	
CE Start Date: Click here to enter a date.	

Re-evaluation:	
<input type="checkbox"/>	This project has been re-evaluated pursuant to 23 CFR 771.129 due to a change in the project scope, location, or termini or because of the need to evaluate new impacts not previously considered, or because five years have passed since the date of the CE Approval. The information on this form reflects all updates to the project information.

Location and Limits:
ADOT ENV Planning

Purpose and Description (scope of work):

Type of CE - Choose <u>one</u> from (c) or (d) or Appeal	drop-down lists:
(c) - list:	(d) - list:
<input type="checkbox"/> (c)(1) Non-Construction	
If the project qualifies for a (c)(1) CE then no Technical Sections review is required and the CE is complete. Proceed to NEPA Compliance Certification and Categorical Exclusion Approval	



Categorical Exclusions

- ❑ A series of drop-down menu selections are used to document relevant environmental concerns
- ❑ The responsible technical areas of Environmental Planning verify the appropriate selections on the checklist are made
- ❑ An additional space exists for “Other Considerations” not included in a drop-down menu

Environmental Review Section

Each category below will be reviewed and a determination from a drop-down menu will be selected for each. The checkbox will indicate review has been completed and the appropriate documentation placed in the Project File as applicable.

Air Quality – Clean Air Act

<input checked="" type="checkbox"/>	326 conformity documentation is located in the project file
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Noise – 23 CFR 772

<input checked="" type="checkbox"/>	This project requires a noise analysis. The report is complete and located in the project file
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Biological Resources – Endangered Species Act

<input checked="" type="checkbox"/>	Project Determination: May Affect, not Likely to Adversely Effect under Section 7 of the Endangered Species Act with USFWS Concurrence
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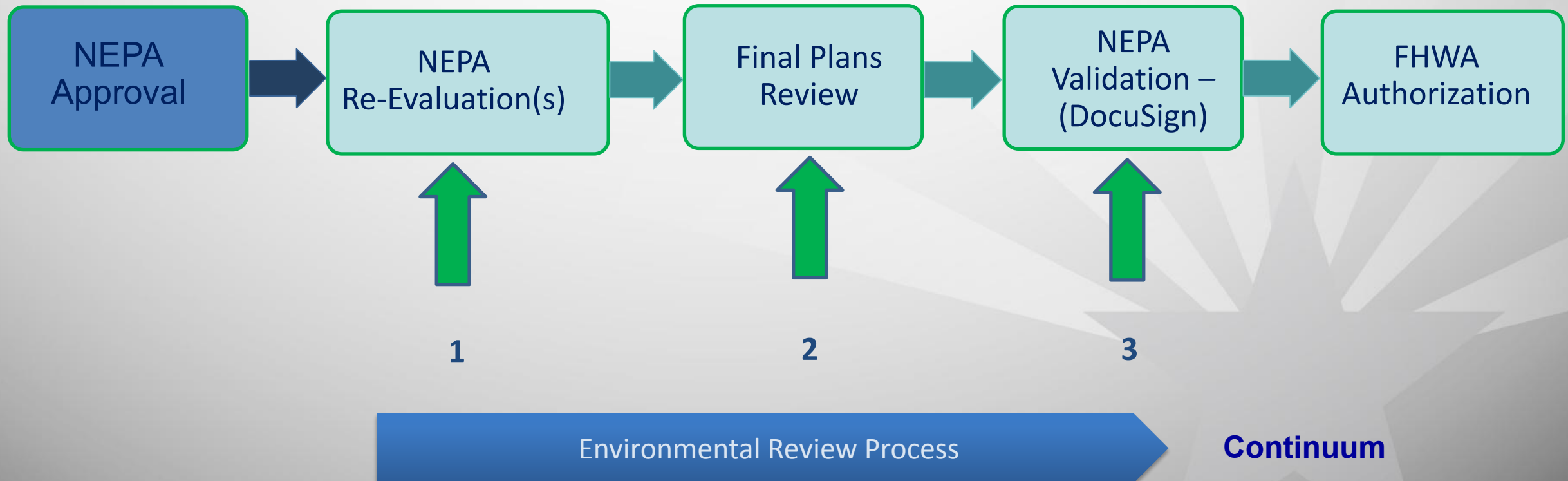
Cultural Resources – Section 106

<input checked="" type="checkbox"/>	Section 106 Determination: Screened Undertaking - Attachment 3 ▾
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Categorical Exclusions

- ❖ “How long does it take to prepare a CE?” or really “How long does it take to develop a project?”
- ❑ The CE is a summary of the totality of surveys, studies, consultations, analysis and “other law” compliance *as applicable* (“it depends”)
- ❑ Some projects such as (equipment) can be cleared with limited technical review
- ❑ “Individually documented and approved” CEs for projects such as adding a travel lane to a roadway can take 9 to 12 months
- ❑ Be mindful of the timing of technical reviews for example:
 - ❑ Biological Opinion – US Fish & Wildlife 135 days by regulation
 - ❑ Conformity determination - the “planning requirements” are not up to date the CE approval could be delayed for months

Final Steps on the way to Federal Authorization



Re-Evaluations of NEPA

NEPA Re-Evaluation(s)

1

- NEPA re-evaluation may come any time after NEPA Approval
 - Change in scope, ROW already cleared and/or project limits

- Formal** - (More complex scope change, substantial time elapsed)
 - Updated CE or Environmental Document (EA)
 - CE Re-Evaluation (basically an update of CE Checklist)

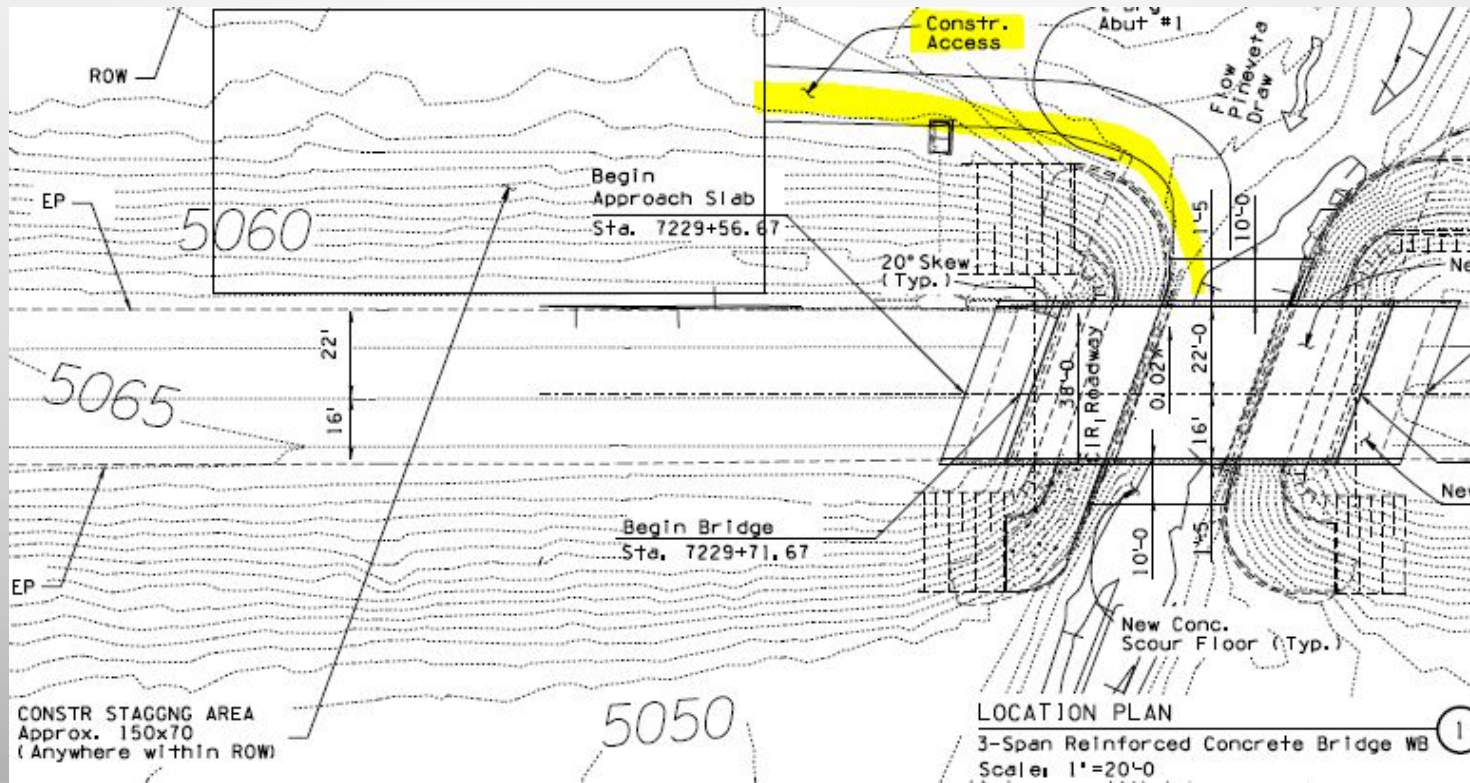
- Informal** – (no substantial changes)
 - For review of changes after NEPA
 - Note to File, Email, Phone Memo, etc.

Final Plans Review

Final Plans Review

- Checking the final plans prior to ADOT validating NEPA
- Confirmation of no change in project scope, right-of-way and/or project limits
- Confirm environmental commitments are complete and included in Contract

2



NEPA Validation at the Request for Federal Authorization

NEPA
Validation –
(DocuSign)

3

Federal-aid Authorization Request

- ADOT Project Manager submits authorization request to FHWA
 - ADOT ENV Planner signs the letter and confirms the project meets ADOT's "Assignment" MOU requirements including:
 - NEPA approval date
 - Date of a formal re-evaluation (if applicable)
 - Project incorporates all environmental commitments

Environmental & Design

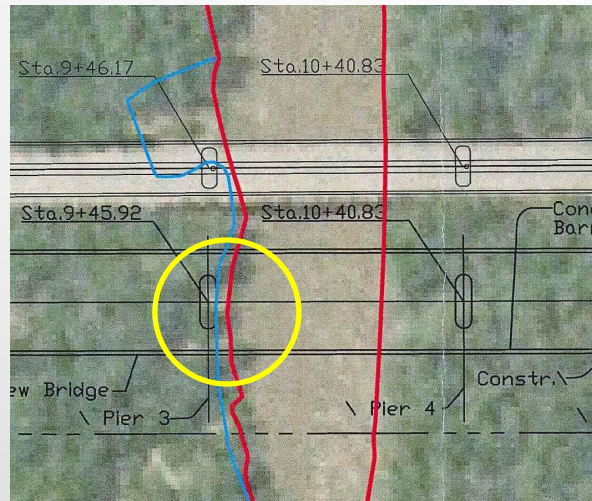


ENVIRONMENTAL CONSTRAINTS

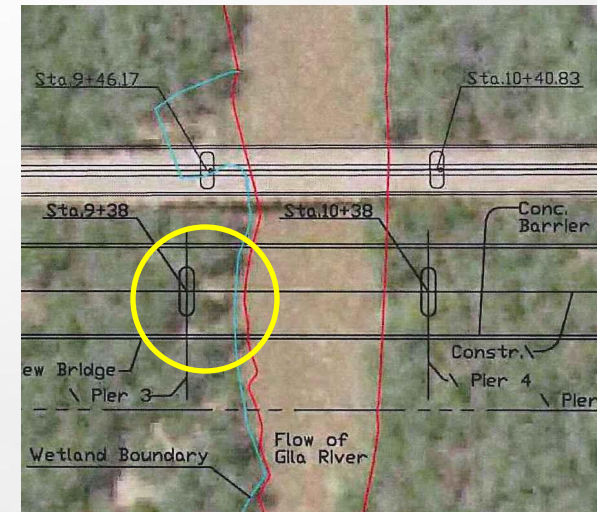
- ***Avoid, Minimize, Mitigate*** – Integral with the project development process
 - Avoid - Environmental Resources (Design)
 - Compromise (not at the expense of safety)
 - Minimize - Impacts (Design)
 - Mitigate - Compensation for unavoidable impacts



DESIGN AND PERMITTING

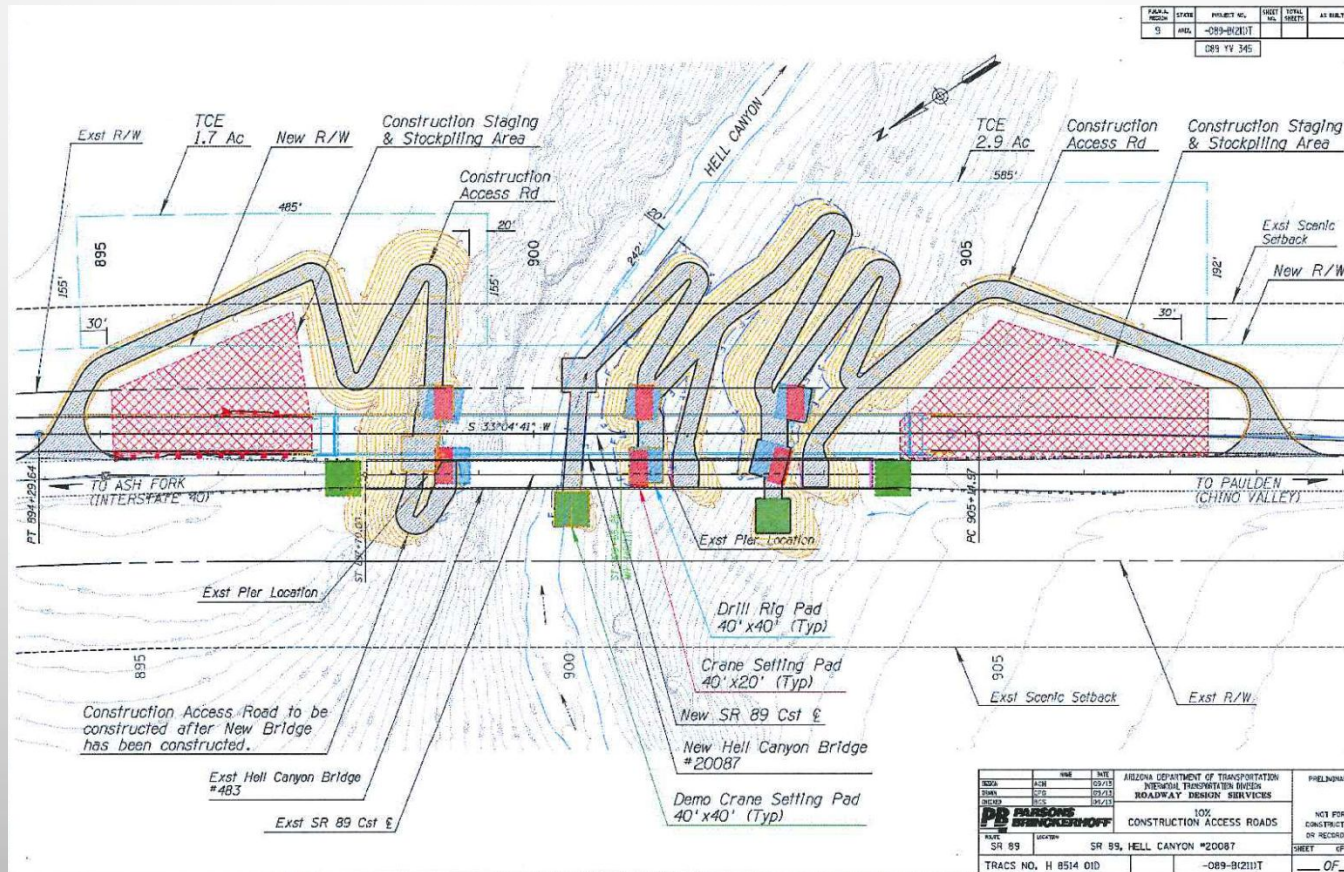


- Seek first to avoid environmental resources
- Preliminary design impacted a wetland (bridge piers)
- Section 404 Individual Permit



- Bridge piers relocated
- Impact to wetlands avoided – permitting simplified to Nationwide Permit

CONSTRUCTABILITY AND FOOTPRINT



Constructability, site access, environmental footprint, and permitting

What is the access plan?

Temporary easements and permitting based on the plan.

ARCHAEOLOGICAL INVESTIGATIONS



- ❑ Known data recovery (archaeology) needs to be integrated with construction phasing
- ❑ Data recovery prior to construction
- ❑ Field work prior to construction but analysis and reporting take longer to complete

Public Involvement and Environmental Justice



- ❑ ADOT's implementation of public involvement is guided by the ADOT Public Involvement Plan
- ❑ Environmental Planning and ADOT Communications work together to implement public involvement at ADOT
 - ❑ Environmental Justice populations may trigger additional outreach
- ❑ For projects, the level of public involvement is scaled to the scope and impacts of the project
- ❑ Public Meetings – Typically for larger expansion projects (CEs)

Environmental Commitments



❖ Environmental Commitments

- ❑ Developed over the course of the project
 - ❑ Avoidance, minimization and compensation
 - ❑ Reviewed and agreed-upon by the Project Team
- ❑ Part of the CE/NEPA by incorporation
- ❑ Contractor commitments included in the contract
- ❑ Tracking and recording of environmental commitments in construction
- ❑ EPIC – Environmental Permits Issues & Commitments
 - ❑ In Plan Sheets
 - ❑ As-builts record

CHANGES DURING CONSTRUCTION



- Changes in construction may require Re-Evaluation
- Temporary Access Road (green road) for rock cutting not included in the original clearance
- Additional environmental work needs to be cleared by ADOT

Questions?

