

Jurisdictional Flowchart with regard to Potential Impacts to the Little Colorado River Basin, and the Gila cypha Habitat.

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Within the Little Colorado River basin the impact most likely to affect the Humpback chub, (Gila cypha) is an impact to the surface or ground waters of the basin and, via surface or ground water flow, a subsequent impact to the habitat of G. cypha. This potential impact to surface or ground water can be categorized into two general areas. These are contamination of surface or groundwater by (1) solid waste, or (2) liquid waste, containing some substance that could adversely affect G. cypha or its habitat. These two categories are regulated by the Federal government. Individual states are mandated to implement identical, or at least functionally equivalent, programs. Solid waste is regulated by the Resource and Conservation Recovery Act (RCRA) of 1976 (as amended by the Hazardous and Solid Waste Amendments of 1984), and is administered by the Environmental Protection Agency (EPA). Liquid waste and contamination of surface and ground water is, within the Little Colorado River basin, primarily regulated by the Clean Water Act (CWA), Section 401 and 404, and is administered by the state through delegation, or the U.S. Army Corps of Engineers (the Corps) and EPA. These two Acts are comprised by an enormous body of written material that are complicated and not easily summarized.

The Little Colorado River basin falls within the jurisdictions of the states of Arizona and New Mexico. Both states have agencies that administer facilities that are regulated by RCRA and maintain data bases on these facilities. Both Arizona, through the Department of Environmental Quality, and New Mexico, through the new Environment Department, also publish Facility Annual Reports (FAR's). The document published by the U.S. Environmental Protection Agency that specifies when a facility is regulated by RCRA, and thus is included in the state FAR is the:

Notification of Regulated Waste Activity. July 1990.  
United States Environmental Protection Agency  
Office of Solid Waste  
(OS-312)  
Washington, DC 20460

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Neither state has delegation of authority for CWA section 404 permits, and the U.S. Corps of Engineers and the Environmental Protection Agency are the primary regulatory agencies for these programs. However both have additional laws, regulations, and criteria that are used in CWA section 401 certification of projects and activities requiring CWA section 404 permits. New Mexico uses the same forms and procedures as does the Corps and does not have summaries or guidelines, other than general informational brochures of the Corps and EPA, of either program. Arizona has produced several documents that summarize the requirements and provides jurisdictional flowcharts of the various processes and procedures,

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and is representative of the programs in both states. These documents are:

- (1) The Interrelationship Between Federal and State Wetlands and Riparian Protection Programs. July 26, 1991. Steiner, F., Pleart, S., and Cook, E. Department of Planning, Arizona State University, Tempe, Arizona 85287.
- (2) Summary and Recommendations: Clean Water Act Section 404 Discharge of Dredged and Fill Materials and Section 401 Water Quality Certification Programs in Arizona. August, 30, 1991. Rich, J. and Coltman, V. Department of Planning, Arizona State University, Tempe, Arizona 85287.
- (3) Arizona Watercourse Alteration Certification and Permit Guide. Oct 18, 1991. Steiner, F., Coltman, V., Cook, E. and Rich, J.
- (4) Arizona Hazardous Materials 1992 Resource Guide. 1992. Compiled by the Hazardous Materials Management Advisory Council.

Figure 2, from page 3-2 of (2) above, detailing CWA sections 404/401 process chart for individual permits in Arizona is reproduced here as an overview to these programs. Other documents available that provide ancillary information for New Mexico and Arizona pertinent to the Little Colorado River basin are listed here from appendix C of (1) above.

#### Arizona

- ADEQ and Your Section 404 Permit (brochure) by Arizona Department of Environmental Quality.
- Regulatory Program - U.S. Army Corps of Engineers, Los Angeles District (brochure).
- Permits Air/Water/Waste-The Application and Issuance Process, November 1900 by ADEQ.
- Arizona Rivers Assessment (map and brochure) by Arizona State Parks Department.
- Arizona Laws Relating to Environmental Quality. 1990 Edition.
- State of Arizona Water Quality Assessment for 1990 [Section 305(b)].
- Arizona Nonpoint Source Assessment Report.
- Arizona Nonpoint Source Water Quality Management Program, 1989.
- Arizona Rivers Lifeblood of the Desert, A Citizens Proposal for the Protection of Rivers in Arizona (Arizona rivers Coalition), March 1991).
- Surface Water Quality Standards (A.A.C. R18-11-201 et seq.), September 30, 1987.

- Arizona Water Quality Control Council Policy for Construction and Related Activities in Water, April 13, 1977.
- Designation of ADEQ as Agency of Arizona for all purposes of the CWA (ARS 49-202A).
- Nonpoint Source Program (ARS 49-203.3 and 49.245 through 49-248).
- Attorney General Certified Rules for Related Agricultural Activities on January 3, 1991.
- Arizona Streambed Ownership Act.
- County Flood Control Districts: Flood Control Planning and Management (ARS 48-3601 through 48-3628).
- Executive Order 89-16, Stream and Riparian Resources, June 10, 1989.
- 1990 Annual Report of the Governor's Riparian Task Force, October 1990.
- Agency Authorities, Programs and Activities Impacting Riparian Resources, ADEQ, 1991.
- Executive Order 91-6, Protection of Riparian Areas, February 14, 1991.
- Arizona Game and Fish Department Policies:
  - Riparian Habitat (J1.1), October 16, 1987.
  - Wildlife and Wildlife Compensation (J11), June 26, 1987.
  - Wildlife and Wildlife Compensation Procedure (J11.1), November 1, 1987.
  - Natural Environmental Policy Act Compliance (D14), November 1, 1987.
  - Procedures for Implementation of the Water Conservation and Recreation Development Fund and all Water-Oriented Developments (J2.3), July 2, 1971.
- Memo 89-05 ADOT Highway Division: Preservation of Arizona's Wetlands (issued August 1, 1989, reviewed August 1, 1990, no expiration).
- Riparian Ecosystem Strategic Plan 1989, A Supplement to the Arizona State Land Department Strategic Plan, November 1989.
- Draft of Bureau of Land Management Arizona State Riparian Area Management Strategy.
- Arizona Wetlands Priority Plan, Arizona State Parks Board, 1988.

The Hopi Tribe has a document entitled:

Hopit Tunatya'at  
Hopi Comprehensive Development Plan  
Part III Development Planning  
The Hopi Tribe, August 30, 1990

This document specifies encouraged and required standards for the following:

Agricultural Lands  
Flood

Hazards  
Historical/Archaeological Lands  
Wildlife  
Airport  
Buffering  
Density  
Erosion and Sedimentation Control  
Fire Protection  
Driveway Access  
Location of Development  
Parking  
Preservation of Topography and Vegetation  
Recreational Open Space  
Setbacks  
Solar Rights  
Solid Waste Disposal  
Traffic-Congestion Impacts  
Water Resources

No reference to CWA 401 and 404 permits, or to RCRA is contained in this document.

The Navajo Tribe's Environmental Protection Administration oversees the following programs and/or agencies:

Pesticide Program  
Superfund  
Public Water Program  
Underground Injection Control  
Solid Waste Program  
Underground Storage Tank Program

There are other programs that are being developed. The Navajo Nation is currently applying for Status as a State and the intent is to develop programs and to obtain delegation of authority for CWA 404 and 401 permit programs. However, currently, the U.S. Environmental Protection Agency is the primary regulatory agency. The region 9 office in San Francisco is the main contact regarding the Clean Water Act and the Resource and Conservation and Recovery Act.

**New Mexico:**

- Water Quality and Water Pollution Control in New Mexico 1990.
- New Mexico Nonpoint Source Pollution Management Program. September 12, 1989.
- Water Quality Standards for Interstate and Intrastate Streams in New Mexico. March 8, 1988.
- Application for State Water Quality Certification (One page form asking for same information the Corps requires).

- Flow Chart of Surface Water Quality Bureau (is being updated due to department restructuring).

Contacts for further information for both states, the Navajo, and Hopi Indian Tribes are:

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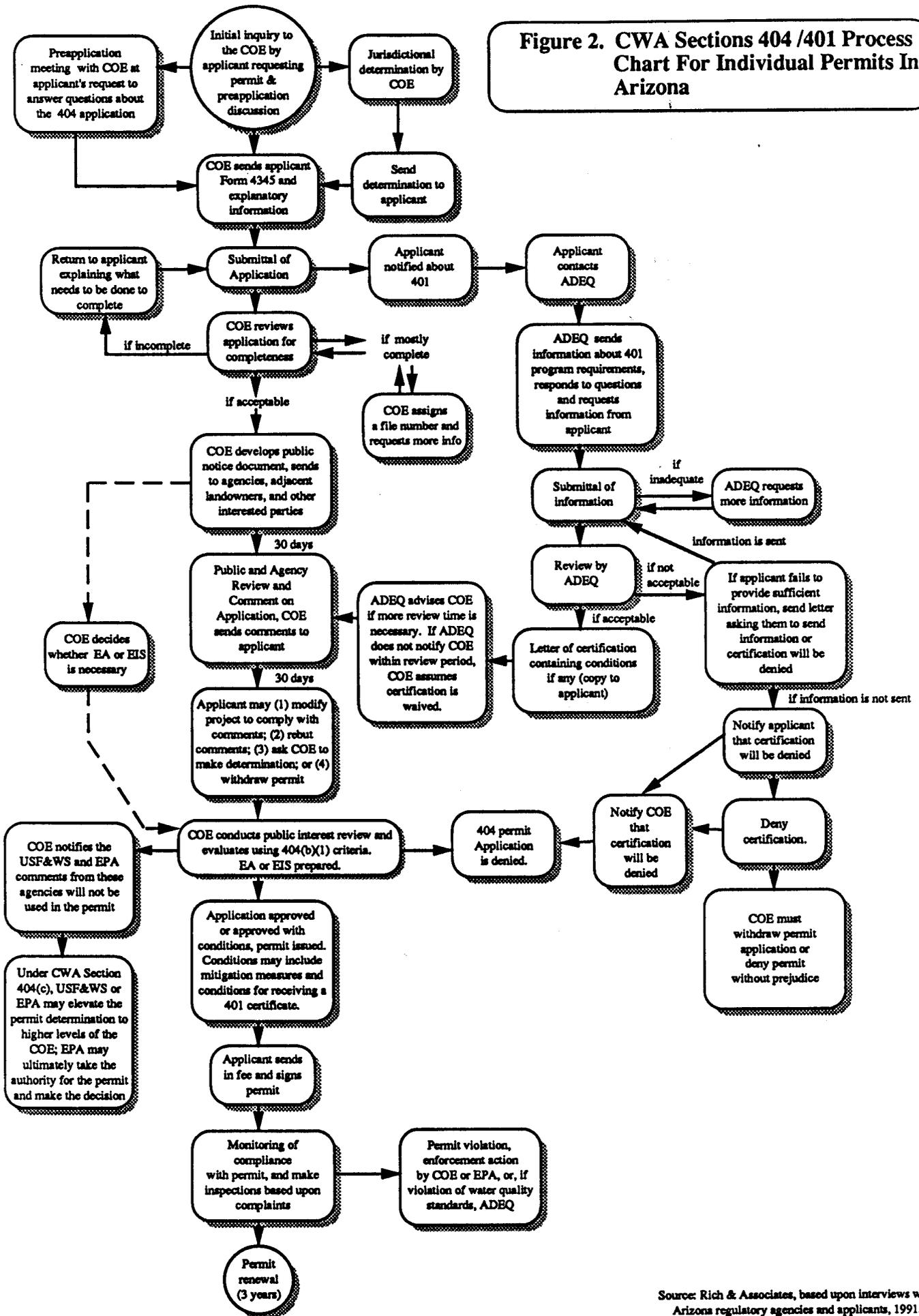
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**Figure 2. CWA Sections 404 /401 Process Chart For Individual Permits In Arizona**



Source: Rich & Associates, based upon interviews with Arizona regulatory agencies and applicants, 1991.