



# Arizona Department of Environmental Quality

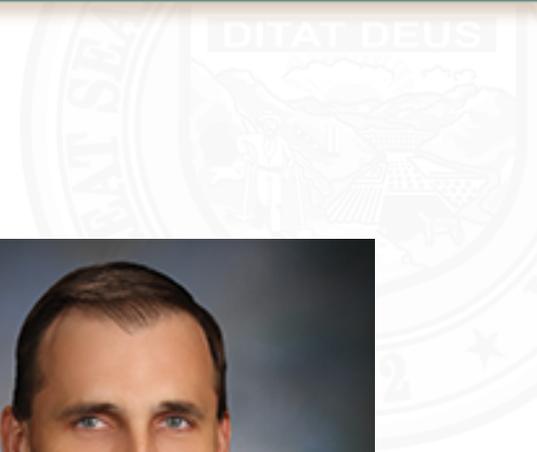
## Clean Water Act § 404 Assumption Tribal Listening Sessions

September 17: Flagstaff

September 19: Phoenix

September 20: Tucson





# WELCOME

Trevor Baggione, ADEQ Water Quality Division Director



- Introductions
- Background on the CWA Section 404 Program
- Arizona's Roadmap to assumption
- Listening Session
- Next steps



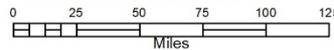
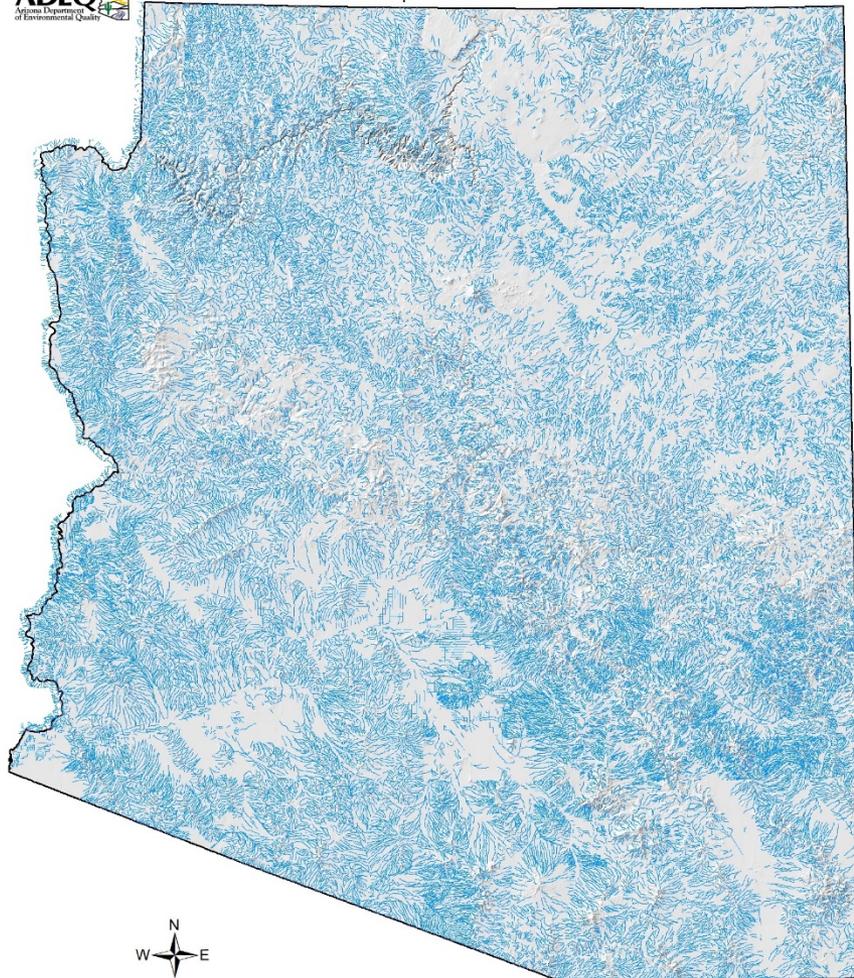


# BACKGROUND ON THE CWA SECTION 404 PROGRAM

# DRAFT ARIZONA WATERS MAP



Arizona Ephemeral Waters



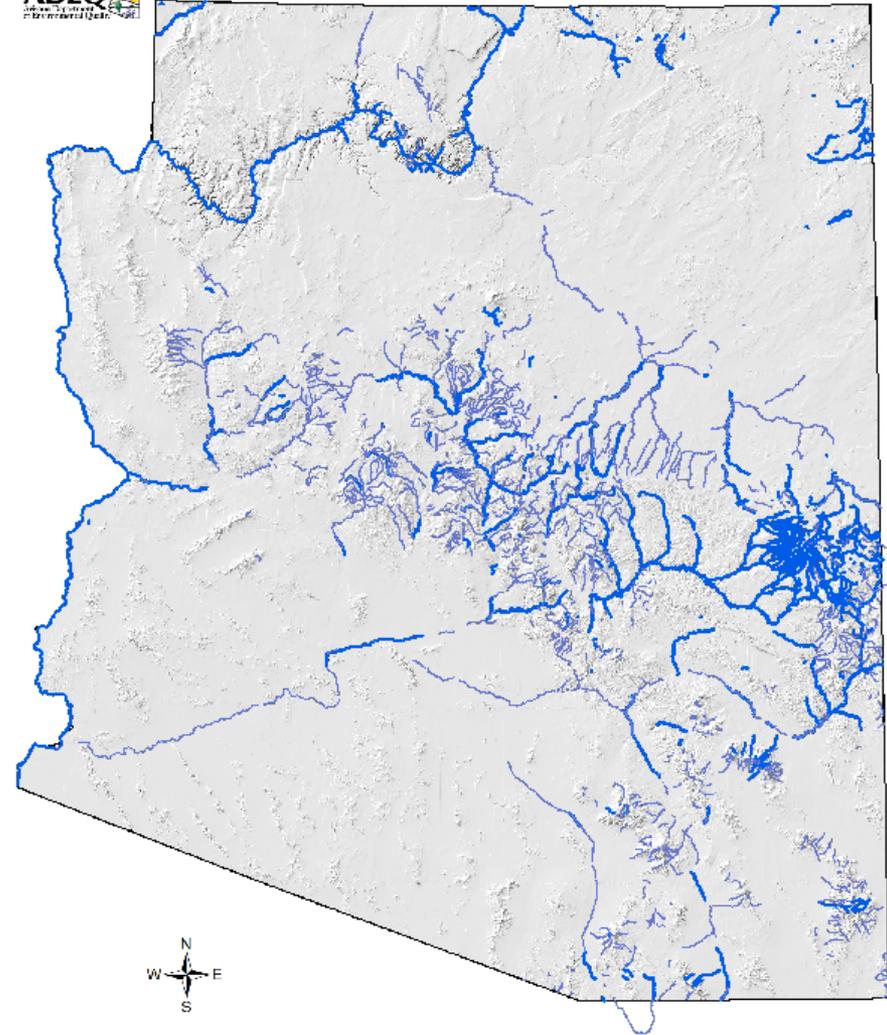
1 in = 42 miles

This map is for general reference only and may not be all-inclusive. ADEQ program's data collection efforts are ongoing. More detailed information and specific locations can be obtained by contacting the Arizona Department of Environmental Quality.

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Arizona Perennial and Intermittent Waters



1 in = 42 miles

This map is for general reference only and may not be all-inclusive. ADEQ program's data collection efforts are ongoing. More detailed information and specific locations can be obtained by contacting the Arizona Department of Environmental Quality.

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- Section 404 was intended to prevent and mitigate impacts from the discharge of dredged or fill material within Waters of the United States (WOTUS)
- A person may not discharge dredge or fill material into a WOTUS without a permit.



CAP Tonopah Desert Recharge Project  
Source: AZTEC TYPESA Group



South Mountain Freeway Construction, Salt  
River Bridge Foundations  
Source: ADOT

- To get a permit:
  - Must show efforts to avoid or minimize impacts
  - Mitigation required if impacts are avoidable



CAP Tonopah Desert Recharge Project  
Source: AZTEC TYP SA Group

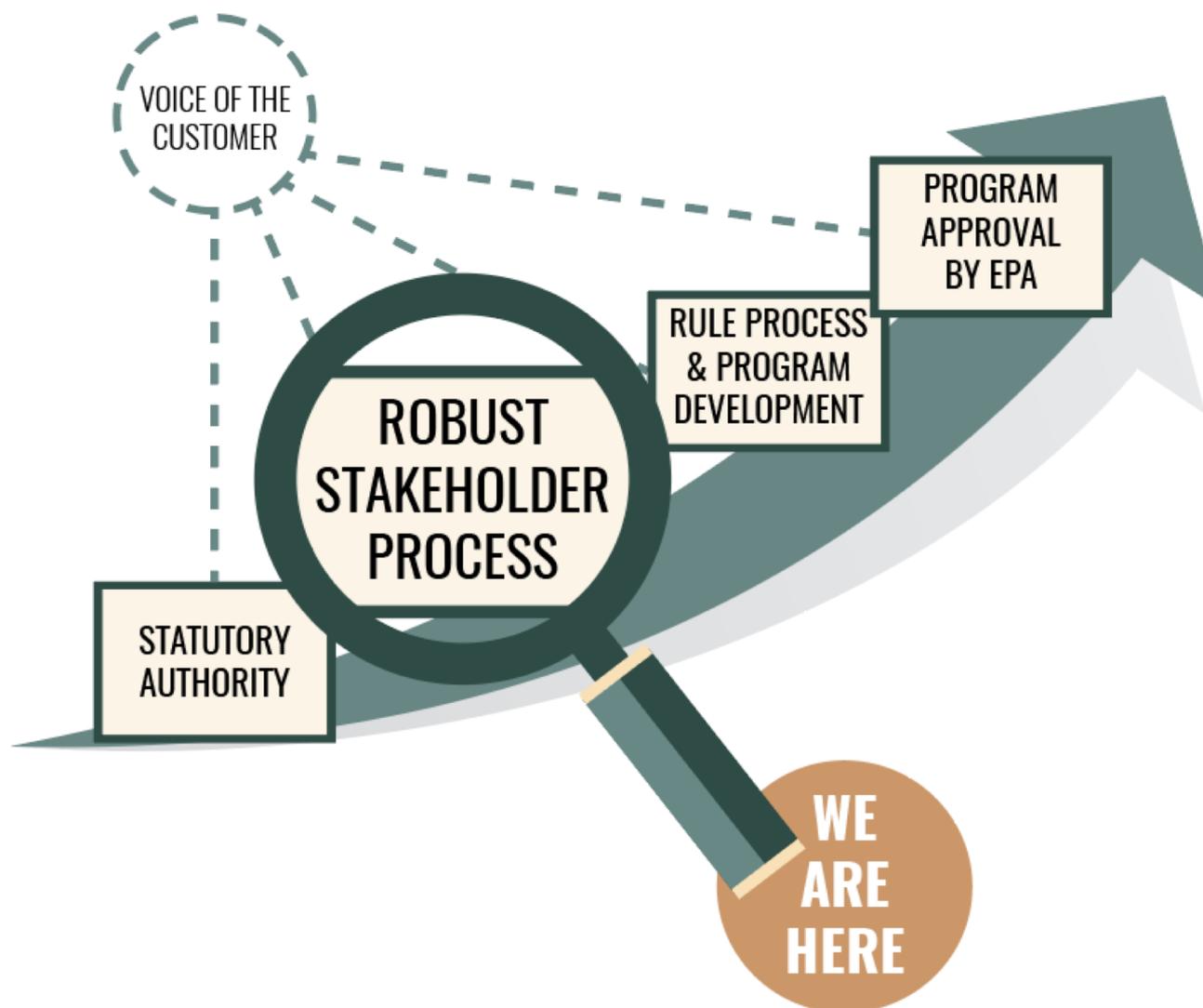


South Mountain Freeway Construction, Salt  
River Bridge Foundations  
Source: ADOT



# ARIZONA'S ROADMAP TO ASSUMPTION

# CWA 404 ASSUMPTION PROCESS



# ROBUST STAKEHOLDERS PROCESS

## OUTREACH



**472**  
PARTICIPANTS

**6** STAKEHOLDER MEETINGS



**91**  
MEMBERS

**70** TECHNICAL WORK  
GROUP MEETINGS



**17**  
MEMBERS

**7** EXECUTIVE WORK  
GROUP MEETINGS

## Tribal Engagement



Governor's Office on Tribal Relations sent a request for engagement

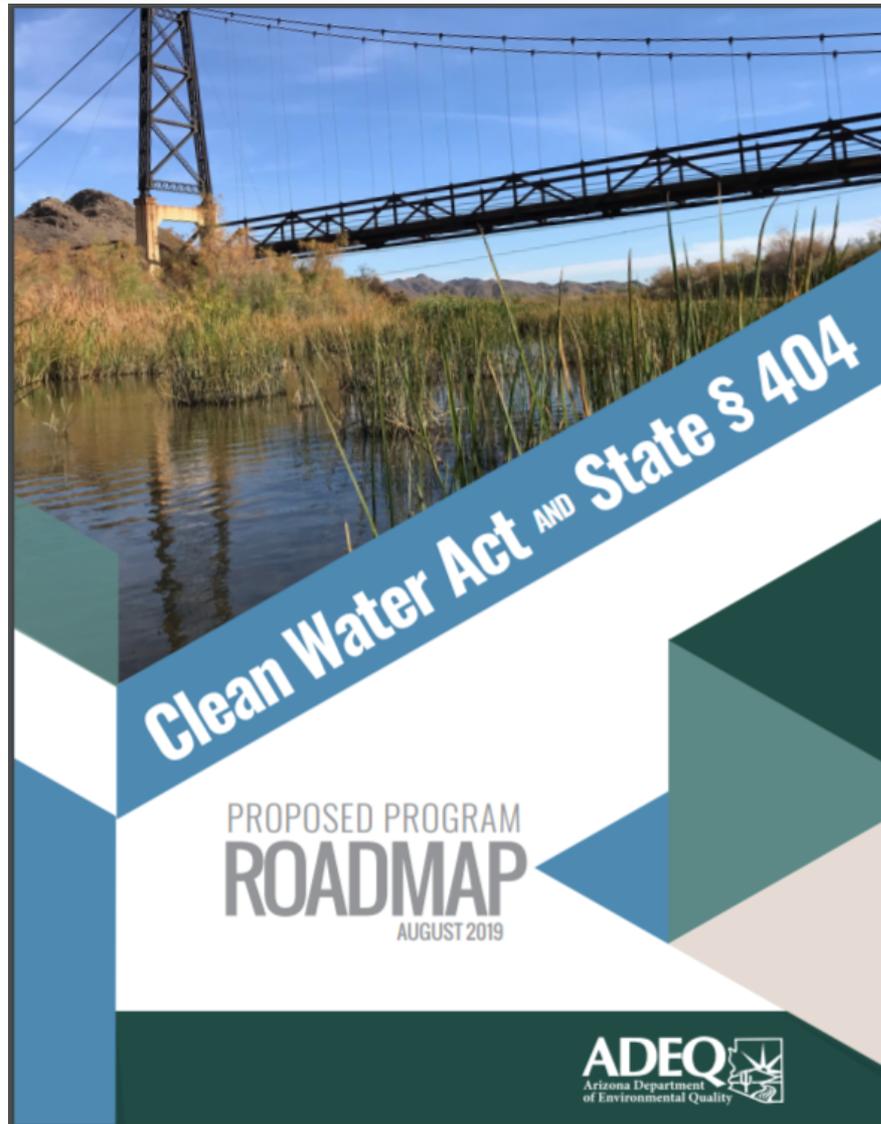


Inter Tribal Council of Arizona hosted a listening session



8 tribes requested and received formal consultation

# ROADMAP: STATE 404 ASSUMPTION



# AZ PROGRAM FEATURES

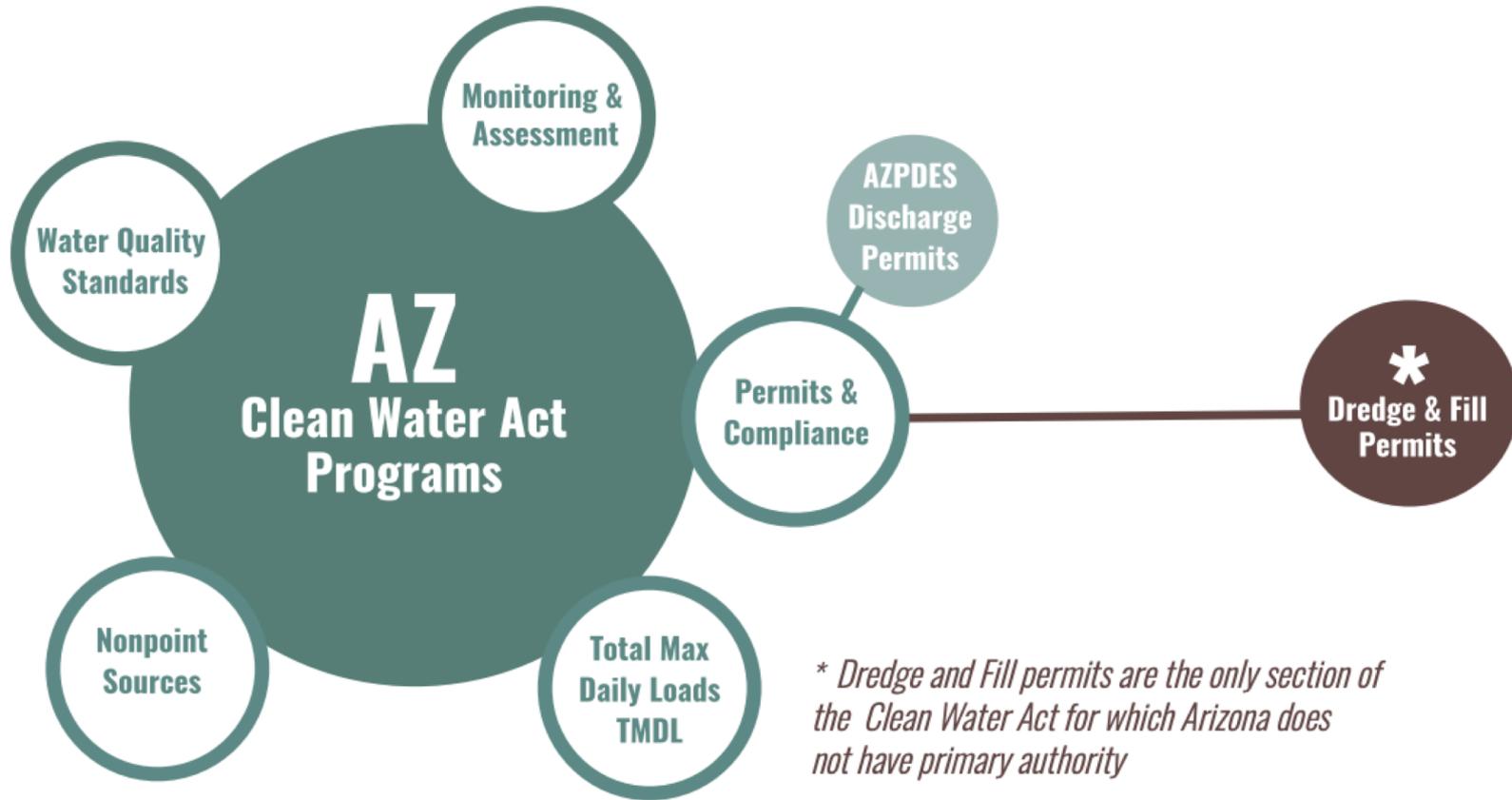
## Comparison of Federal and State Program

<b>404(b)(1) Review</b>	<ul style="list-style-type: none"><li>• Same as the current Federal program</li></ul>
<b>Endangered Species Act Protections*</b>	<ul style="list-style-type: none"><li>• Same as the current Federal program</li><li>• Some permits that need ESA § 7 incidental take protections may be “off ramped” back to Army Corps</li></ul>
<b>National Historic Preservation Act*</b>	<ul style="list-style-type: none"><li>• State Historic Preservation Act would apply instead</li></ul>
<b>National Environmental Policy Act</b>	<ul style="list-style-type: none"><li>• Not a feature of the State program</li></ul>
<b>Tribal Engagement</b>	<ul style="list-style-type: none"><li>• Applies to all permits and applications</li></ul>
<b>Historic Resource Protections*</b>	<ul style="list-style-type: none"><li>• Protections for sites in the Waters of the US</li><li>• Identify, document, and nominate properties to the Arizona Register of Historic Places</li></ul>
<b>Public Interest Review</b>	<ul style="list-style-type: none"><li>• Army Corps requirement</li><li>• Not a feature of the State program</li></ul>
<b>Public Notice*</b>	<ul style="list-style-type: none"><li>• State program will feature 2 public notices</li></ul>
<b>Enforcement *</b>	<ul style="list-style-type: none"><li>• Respond to complaints, proactive inspections, etc.</li></ul>



# BENEFITS OF ARIZONA ASSUMPTION

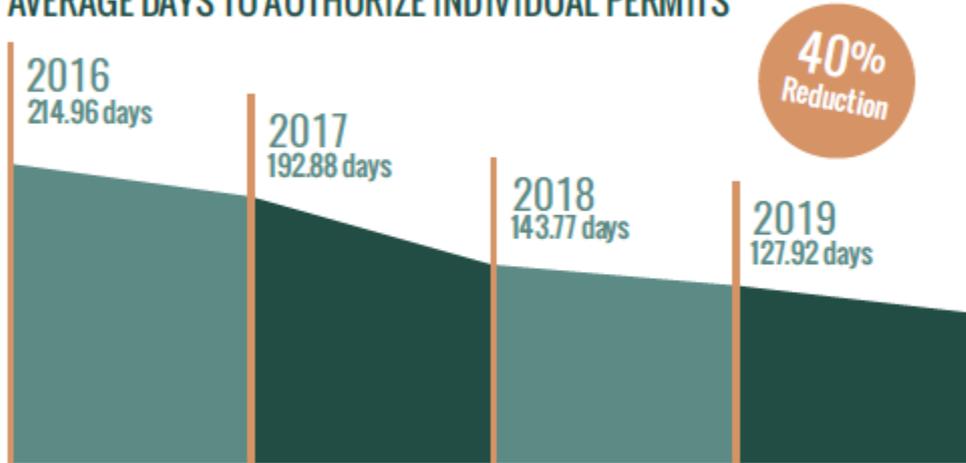
# Improved Accountability



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

# HISTORY: REDUCED TIME FRAMES

## AVERAGE DAYS TO AUTHORIZE INDIVIDUAL PERMITS



*ADEQ has continuously reduced the number of days to authorize Individual Permits*

## AVERAGE DAYS TO RETURN TO COMPLIANCE



*Through compliance assistance efforts, ADEQ has worked with customers to reduce the number of days to return to compliance*





- First notice upon receipt of application
- Second notice to review draft permit
- Online tools to track



# ADDITIONAL BENEFITS

- Predictable and consistent permit conditions
- Surface water data to better condition permits





- Inspect facilities
- Respond to complaints
- Enforce program rules and statutes
- Promote positive environmental practices





# PROGRAM DESCRIPTION

# ESTIMATED PROGRAM COSTS

- \$2.5 million annually
  - 10 staff
  - More than 300 actions
- Fees to be established in rule
- Customers (Applicants) to cover the costs of the program



- ADEQ will review and make determination of potential impacts
- If no unacceptable adverse impact, a permit may be issued
- ADEQ is not authorized to issue incidental take permits



Apache trout (*Oncorhynchus apache*)  
Photo courtesy of Arizona Game and Fish



- Engagement with Tribes and State Historic Preservation Office
- Only issue a permit if no significant degradation will occur in the WOTUS
- If no significant degradation will occur in the WOTUS, ADEQ may issue permit
- Identify, document, and nominate properties to the Arizona Register of Historic Places, as required by State Historic Preservation Act



Len Drago, ADEQ Tribal Liaison

# LISTENING SESSION





- ADEQ will use your input to:
  - Identify gaps in the proposed program
  - How best to interface with tribes during permitting





- Go to [www.azdeq.gov/404](http://www.azdeq.gov/404)
- Review Roadmap
- Click on link on page 66
- Answer questions

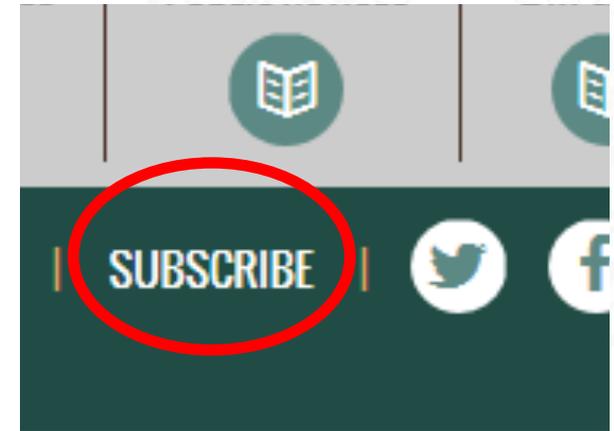
**NEXT STEPS:**

**SUBMIT COMMENT BY NOV 18**



# COMING SOON: WATERS OF THE STATE

- To subscribe to ADEQ announcements via Govdelivery, click “subscribe” on bottom right of ADEQ home page
- [Subscribe](#) specifically to the “WOAZ Stakeholder Communications” list



**EMAIL: CWA404@AZDEQ.GOV**

**FOR MORE INFORMATION**