

SECTION IX – FEDERAL “KILL-SHOT” AUTHORITIES

(Non-Discretionary Federal Triggers That Halt the Corridor Regardless of State Action)

Federal kill-shot authorities are binding statutes, regulations, and judicial precedents that automatically halt the Water-Energy-Al Corridor even if every Texas agency approves it. These federal triggers override:

- TWDB feasibility declarations
- RRC pipeline/common-carrier authorizations
- TCEQ environmental posture
- Region C water-planning votes
- County/city zoning, annexation, or tax agreements
- PPP / EDC contracts

These authorities remove federal discretion. Once triggered, USACE, EPA, DOI, DOE, and DOJ must intervene and cannot lawfully authorize further action.

Below are the **eight primary federal kill-shots**.

Any single one stops the project.

Multiple are already triggered.

IX.1 KILLSHOT #1 – NHPA § 106 (54 U.S.C. § 306108)

Mandatory Federal-Tribal Consultation: “No Undertaking Shall Proceed.”

NHPA § 106 requires federal agencies to:

1. Identify Tribal cultural and historic resources
2. Consult directly with Tribal governments
3. Evaluate adverse effects
4. Review alternatives
5. Implement avoidance or mitigation

No federal undertaking may proceed before consultation is completed and accepted.

Why This Kills the Corridor

The Corridor requires multiple federal actions:

- USACE § 404 permits (pipelines, reservoir, embankment, transmission fills)
- CWA § 401 water-quality certification
- Federal funding / mapping / federalized infrastructure
- Transmission crossings over waters of the United States

All create a federal nexus → §106 applies.

INTSUM §IX.1-§IX.3 documents a dense Caddo mortuary and ceremonial landscape within the reservoir footprint. Consultation did not occur.

Binding Case Law

- *Quechan Tribe v. DOI* – failure to consult → injunction
- *Pueblo of Sandia v. United States* – omission of sacred sites → federal reversal
- *Nat'l Trust v. Blanck* – §106 defects halt projects

Federal Consequence

USACE, EPA, and DOI must freeze all corridor actions until §106 is satisfied. They have no discretion to proceed.

IX.2 KILLSHOT #2 – NAGPRA (25 U.S.C. §§ 3001-3013)

Criminal Penalties for Disturbing Indigenous Human Remains

INTSUM §IX.2 documents:

- Caddo burials
- Funerary vessels
- Ceremonial features
- Mortuary landscapes

Under NAGPRA:

- Disturbing Indigenous remains = federal crime
- Agencies cannot approve projects that foreseeably disturb remains
- DOJ and NPS must be notified upon discovery or credible indication
- Liability attaches even when disturbance is foreseeable, not intentional

Federal Consequence

USACE cannot lawfully issue a §404 permit for a reservoir that will submerge or destroy Indigenous burials. Doing so triggers federal criminal jurisdiction and mandatory DOJ intervention.

IX.3 KILLSHOT #3 – ARPA (16 U.S.C. §§ 470aa-470mm)

Felony Excavation or Damage to Archaeological Resources

ARPA applies to:

- Federal lands
- Areas needing federal permits
- Waters of the United States
- Tribal trust-responsibility zones

Because the reservoir and corridor require USACE §404 permits, ARPA is triggered automatically. INTSUM §IX.1-§IX.3 documents un-excavated mound features and archaeological resources in the inundation zone. Excavating, flooding, or damaging archaeological resources is a federal felony.

Federal Consequence

USACE and DOI must deny or halt any action that would cause illegal disturbance.

ARPA felony exposure makes further authorization unlawful.

IX.4 KILLSHOT #4 – Clean Water Act § 404 / § 401 (33 U.S.C. § 1344)

USACE Must Deny a Permit When Any Disqualifying Condition Exists

Under the CWA and §404(b)(1) Guidelines (40 C.F.R. Part 230), USACE must deny a permit if:

- practicable alternatives exist
- cultural resources will be harmed
- mitigation is inadequate
- the §401 certification is invalid/incomplete
- cumulative impacts were not evaluated
- contamination creates downstream impairment risk

INTSUM §V.3 shows contamination plumes and hydrology impacts were suppressed.

INTSUM §IV.1-§IV.2 shows alternatives were not genuinely considered.

INTSUM §IX shows cultural resources would be destroyed.

All six disqualifying conditions are triggered.

Federal Consequence

USACE must deny reservoir-related §404 permits.

Without §404 → no reservoir → no corridor.

IX.5 KILLSHOT #5 – NEPA (42 U.S.C. § 4332(C))

Segmentation Is Per Se Illegal Under Supreme Court Precedent

The Corridor illegally segments:

- pipelines
- transmission upgrades
- AI mega-hub
- reservoir
- water planning cycles
- contamination zones
- burial landscapes

Segmentation violates **NEPA** and the Supreme Court's ruling in *Kleppe v. Sierra Club*.

Federal agencies must produce **one unified EIS** addressing all linked systems.

Federal Consequence

Until the unified EIS is completed:

- All federal permits are frozen

- No segment may be lawfully approved

This kills the Corridor until a years-long EIS is completed.

IX.6 KILLSHOT #6 – CERCLA (42 U.S.C. §9607) & RCRA (42 U.S.C. §6973)

Thermo Mine/Big Brown Contamination Blocks Federal Authorization

INTSUM §V.3 documents:

- Arsenic, boron, chromium, and other contaminants
- RCRA “imminent hazard” behavior
- Historic contamination migration toward the reservoir basin
- Groundwater transport connections to White Oak Creek and Sulphur Basin

Under CERCLA/RCRA:

- The federal government cannot approve infrastructure that worsens contamination
- Participants can become PRPs
- USACE must halt permitting until hazards are mitigated

Federal Consequence

A reservoir **cannot** be approved over an active CERCLA/RCRA hazard.

USACE must **freeze or deny** permits.

IX.7 KILLSHOT #7 – Hobbs Act (18 U.S.C. §1951)

Eminent Domain for Private Gain = Federal Extortion Charge

INTSUM §VIII.1–§VIII.3 shows eminent-domain authority was used to facilitate:

- cheap land seizure
- pipeline routing through future reservoir zones
- uplift of private land portfolios
- creation of lakefront and industrial development value

Under the Hobbs Act, using public office to obtain property for private beneficiaries = **extortion under color of official right**.

Federal Consequence

Once Hobbs Act exposure is identified, DOJ may:

- issue subpoenas
- seize or review records
- freeze permitting processes
- block or void contracts

This halts the Corridor immediately.

IX.8 KILLSHOT #8 – RICO (18 U.S.C. §§1961-1968)

Enterprise, Pattern, Predicate Acts, Interstate Commerce – All Satisfied

The Corridor satisfies:

- Enterprise (hierarchy and functional relationships) – *Boyle*
- Pattern (repeated conduct across multiple basins and agencies) – *Sedima, H.J. Inc.*
- Predicate Acts:
 - bribery
 - extortion
 - false statements
 - mail/wire fraud
- **Interstate commerce:** pipelines, transmission, and AI hubs

Federal Consequence

DOJ may:

- initiate a civil or criminal RICO investigation
- impanel a grand jury
- seize/evaluate assets
- subpoena officials and contractors
- freeze federally linked permits

A RICO investigation automatically pauses all federal actions.