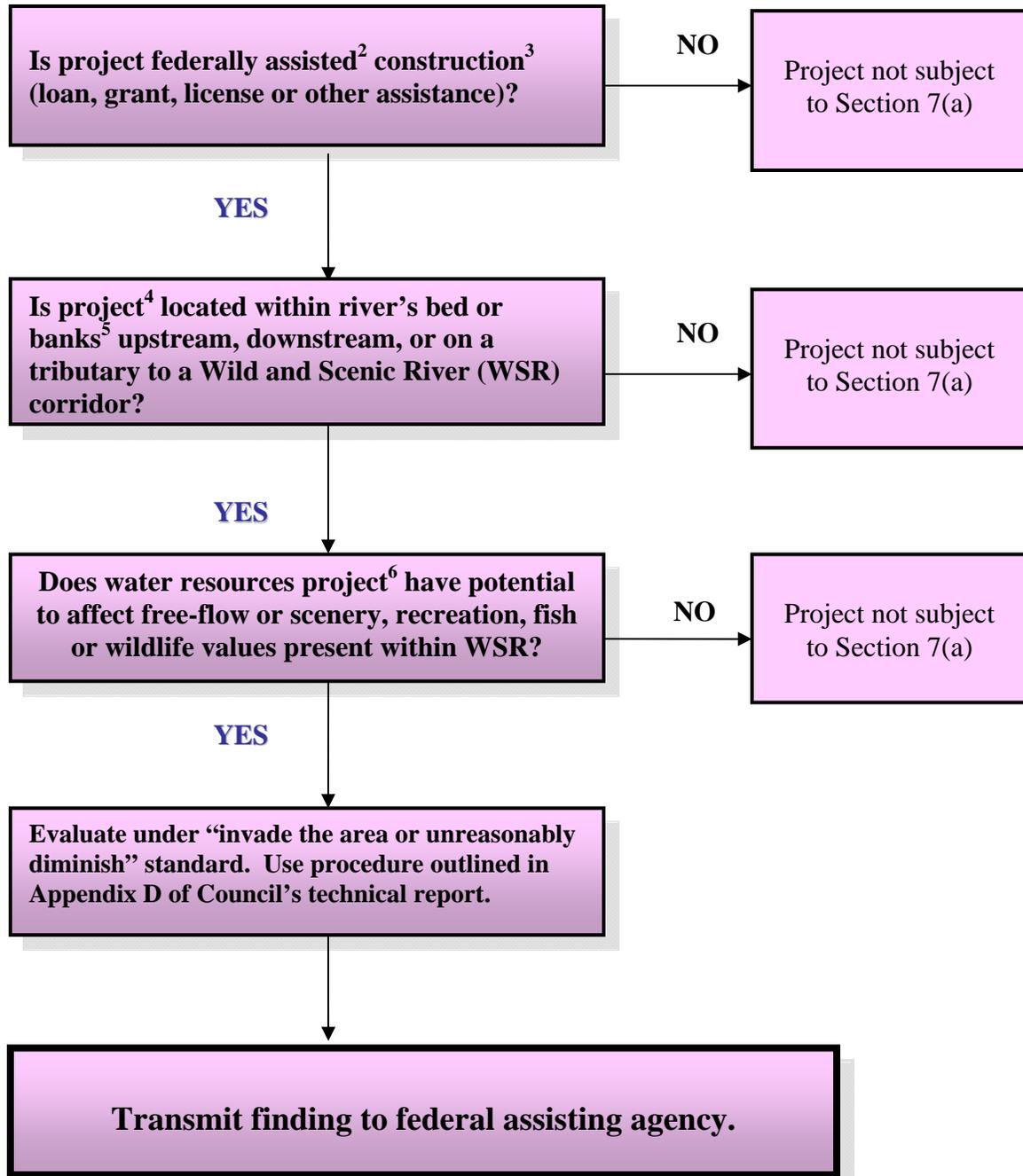


## Section 7(a) Flowchart for a Water Resources Project “Outside” a Wild and Scenic River Corridor<sup>1</sup>



<sup>1</sup> **A wild and scenic river (WSR)** means a river and the adjacent area within the boundaries of a component of the National Wild and Scenic Rivers System pursuant to section 3(a) or 2(a)(ii) of the Wild and Scenic Rivers Act (WSRA). **Outside** the corridor means a project located upstream, downstream or on a tributary to a WSR.

<sup>2</sup> **Assistance** means loan, grant, license, or other assistance in the construction of any water resources project.

<sup>3</sup> **Construction** means any action carried on with Federal assistance affecting the free-flowing characteristics of a WSR.

<sup>4</sup> **Water resources project** means any federally assisted construction that would affect free-flowing characteristic, as defined in Section 16(b) of the WSRA (see footnote 5), or affect the scenic, recreational, fish or wildlife values within the WSR. Projects that typically meet this definition are dams, diversion structures and projects that can be seen from the WSR because they have the potential to affect these characteristics and values in the WSR. This definition also includes licenses and exemptions of hydropower projects under Part I of the Federal Power Act, as amended (41 Stat. 1063; 16 U.S.C. 791a et seq.), assuming a nexus as describe in footnote 6.

<sup>5</sup> **Bed or banks** is an interpretation of Section 16(b) of the WSRA, which defines free-flowing, in part, as “existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway.” Generally the applicability of Section 7(a) is limited to the area within the ordinary high water mark (OHWM) of the river. OHWM is defined in 33 CFR Part 328.3(e) as “...that line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.”

<sup>6</sup> Requires a **nexus** between the proposed upstream, downstream or tributary project and the WSR or such project is not a water resources project for purposes of a Section 7(a) determination. Projects that have the potential to affect *free-flow, or scenery, recreation, fish or wildlife values* of the WSR are dams, upstream diversion structures and projects that can be seen from the WSR as they have the potential to affect these characteristics and values in the WSR.