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PHMSA After Reauthorization Enforcement Trends Enforcement Do's and Don'ts Water Crossings

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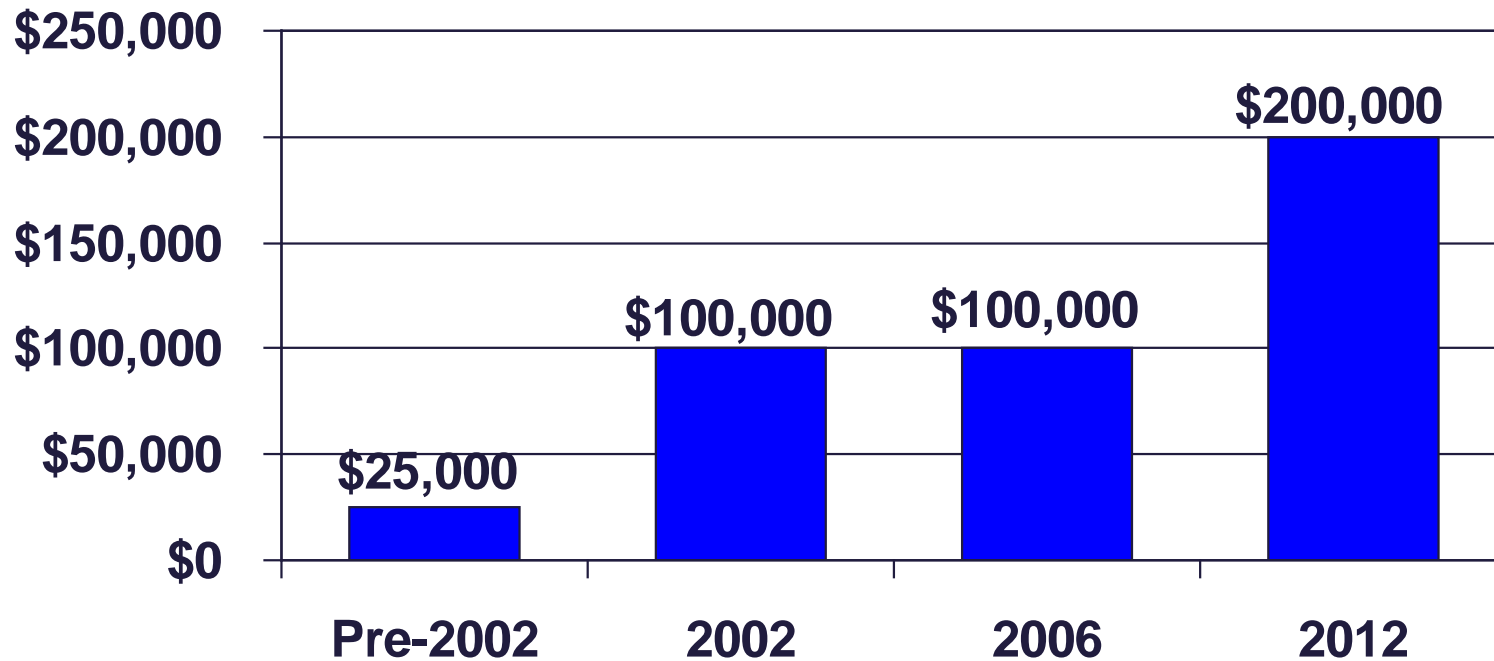
Introduction – Topics We'll Cover

- Enforcement Trends – Where We've Come From...
and Where We're Going
- Enforcement Do's and Don'ts
- Water Crossings

Enforcement Trends

- **Where We've Come From**

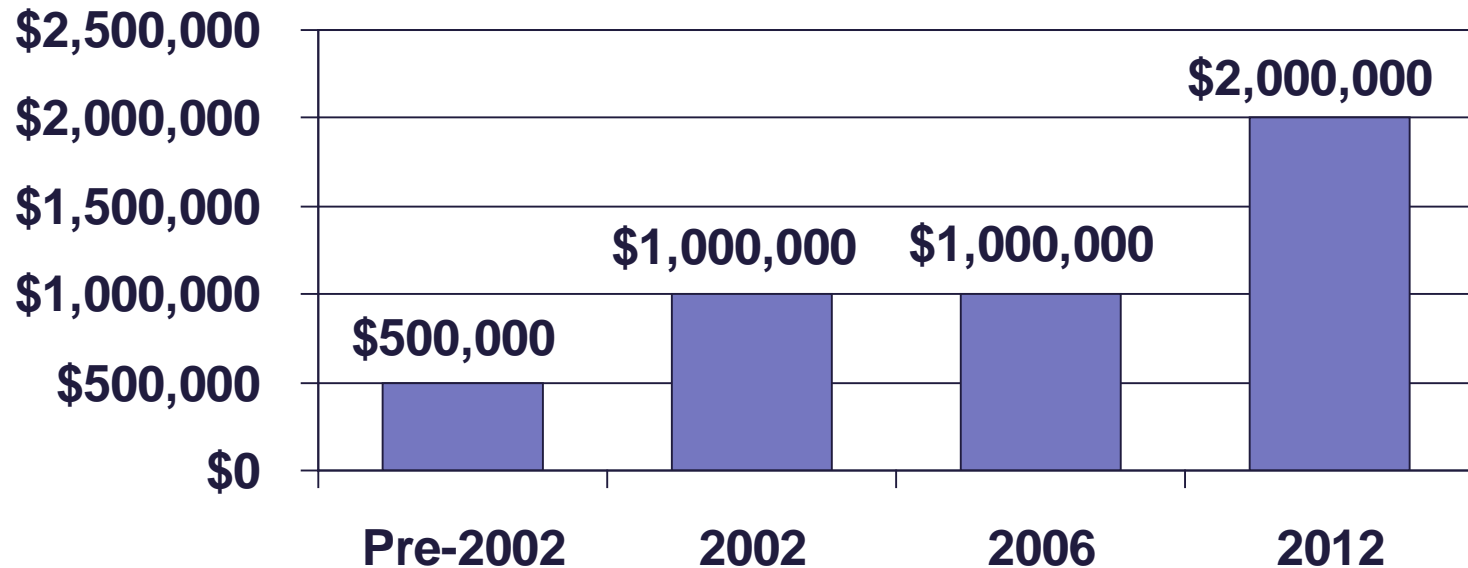
Maximum Statutory Fine Per Violation



Enforcement Trends

- **Where We've Come From**

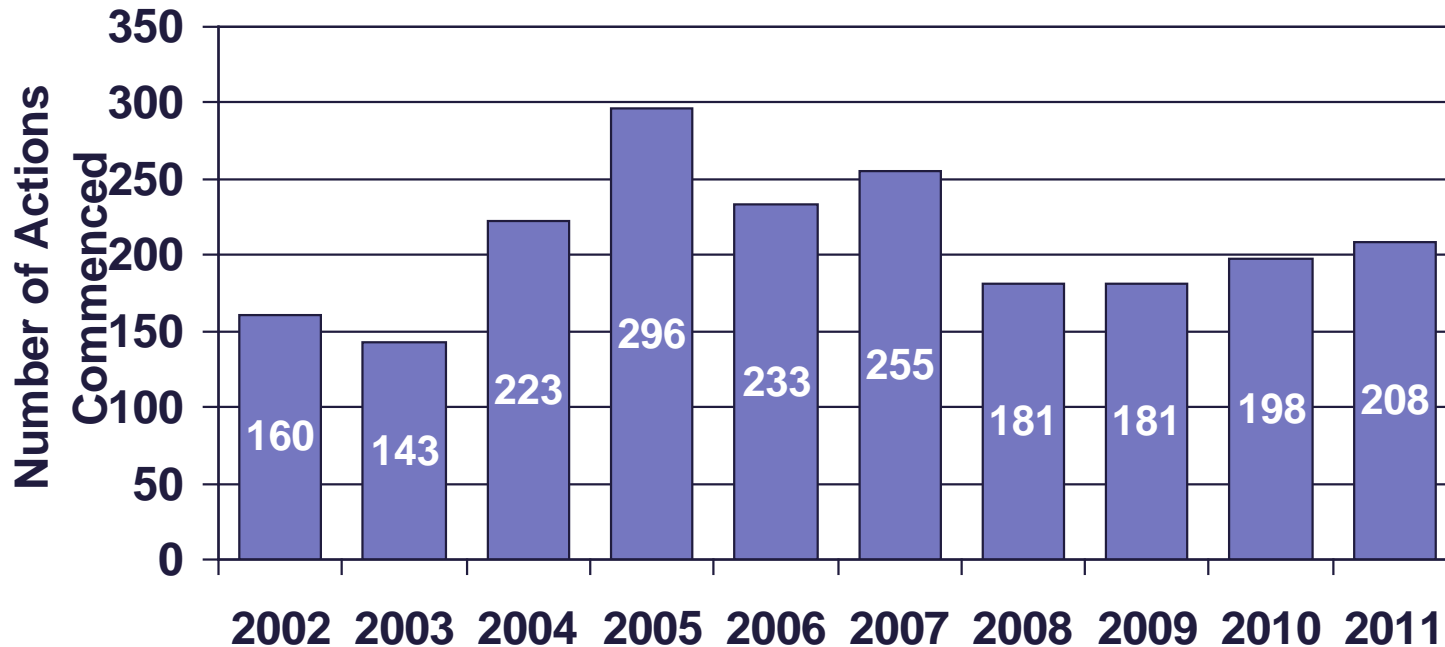
Maximum Statutory Fine Per Series of Violations



Enforcement Trends

- **Where We've Come From**

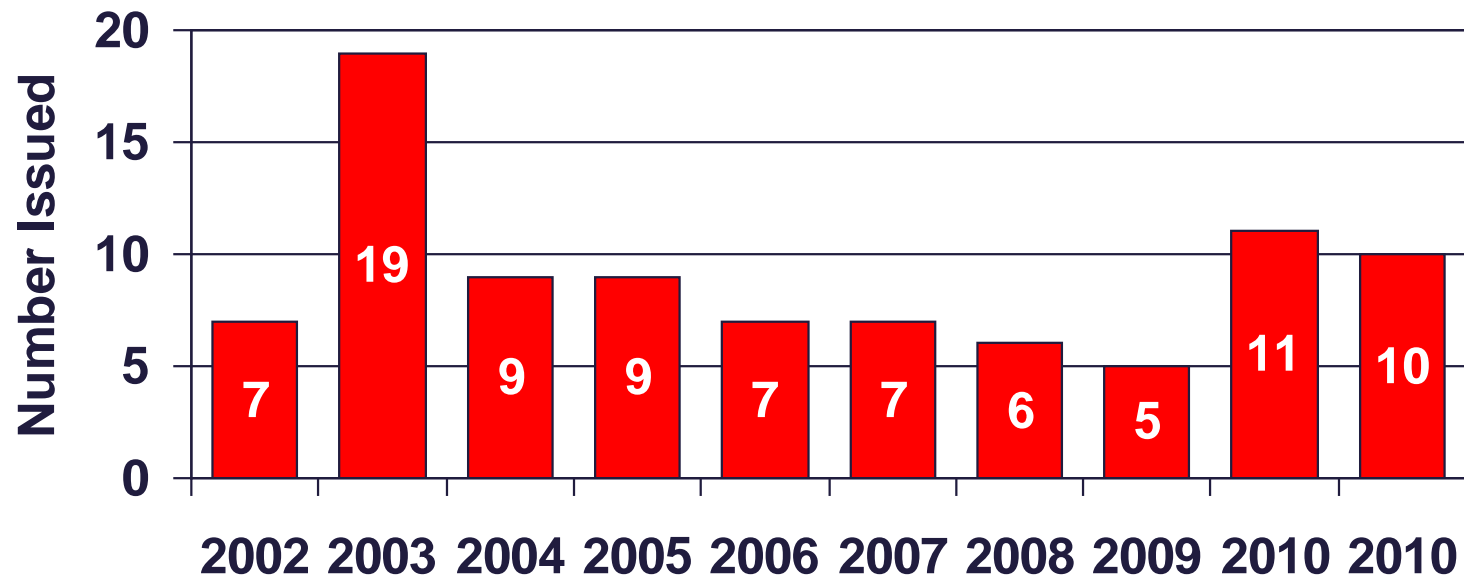
Enforcement Actions Commenced (Hazardous Liquids and Gas)



Enforcement Trends

- Where We've Come From

Corrective Action/Safety Orders Issued (Hazardous Liquids and Gas)



Enforcement Trends

■ Where We're Going

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011¹

- Increase in Maximum Fines
 - Per Violation \$100K → \$200K
 - Series of Violations \$1 Million → \$2 Million
- Obstruction of Investigation: Actions to Prevent, Hinder, or Impede an Investigation without Good Cause
- Penalty Caps Inapplicable – Action by the Attorney General



1. (P.L. 112-90, January 3, 2012)

Enforcement Trends

■ Where We're Going

- “We will continue to conduct rigorous inspections to meet even more safety achievements in the future.”
PHMSA Administrator Cynthia Quarterman



- “Safety is our top priority, and through better enforcement, we can help prevent accidents before they occur.” *Transportation Secretary Ray LaHood*



Enforcement Trends

■ Where We're Going

Odds and Ends (just not to be overlooked)

- Post-Accident Drug and Alcohol Testing²
- Facility Response Plans
 - PREP Guidelines Update
 - Coast Guard and PHMSA and EPA³
 - Pipeline Safety Act of 2011
 - PHMSA Enforcement under OPA '90 / Part 194
 - PHMSA Shall Maintain Facility Response Plans and Provide a Copy Upon Request

2. ADB-2012-02

3. Docket USCG-2011-1178



Enforcement Do's and Don'ts

- Do Be Courteous and Respectful
- Do Examine the Agency's Evidence and Analysis
- Do Research the Rule in Question
- Do Develop Your Facts – Thoroughly and Completely
- Do Be Realistic in Assessing Your Position
- Do Communicate in Writing



Enforcement Do's and Don'ts

- Do Respond – In Writing if Not a Hearing
- Do Meet Deadlines (or request an extension)
- Do Avoid Ex Parte Communications – Contact Point → Agency Counsel (not Presiding Official)
- *Don't Do Anything I Wouldn't Do*



Water Crossings

Background: San Jacinto River 1994
Yellowstone River 2011
Missouri River Basin 2011

Current Rules:

- Depth of Cover: 195.248(a) – Crossing of inland bodies of water with a width of at least 100 feet from high water mark to high water mark ...
 - 48 inches normal excavation
 - 18 inches rock excavation
- Valve Location: 195.260 – “A valve must be installed ...
 - “(e) on each side of a water crossing that is more than 100 feet ... wide from high-water mark to high-water mark unless the Administrator finds in a particular case that valves are not justified

Water Crossings (continued)

- Advisory Bulletin 11-04:
Potential for Damage to Pipeline Facilities Caused by Flooding⁴

- Pipeline Safety Act of 2011
 - Study: Was Depth of Cover a Factor in Release Incidents?
 - Report on Results of Study
 - If DOC is a Contributing Factor, Determine the Sufficiency of Current Requirements for DOC
 - If Current Requirements Insufficient, Develop Legislative Recommendations for Improving Safety at Crossings

4. 76 FR 44985, July 27, 2011

Water Crossings (continued)

- One Practical Approach
- Scour and Stream Stability Analysis and Evaluation
 - Hydraulic Engineering Circular Nos. 20 and 18
 - Designed Initially for Highway Structures
 - Stream Stability
 - Vertical Stability
 - Horizontal Stability
 - Scour Potential / Susceptible
 - Hydraulic Analysis
 - Engineering Analysis
 - Geotechnical Assessment



HEC-20

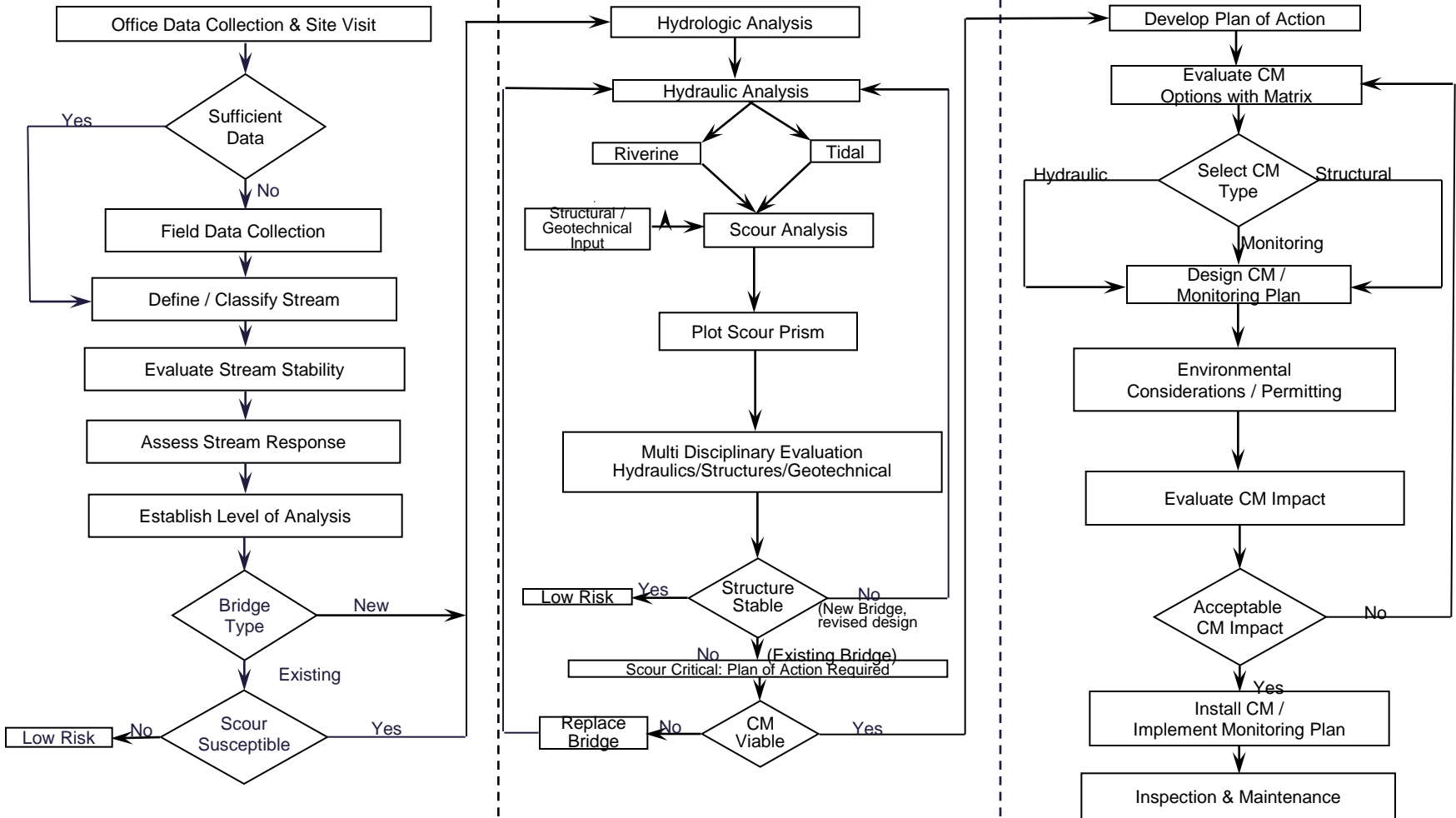
Stream Stability and Geomorphic Assessment

HEC-18

Hydrologic, Hydraulic and Scour Analysis

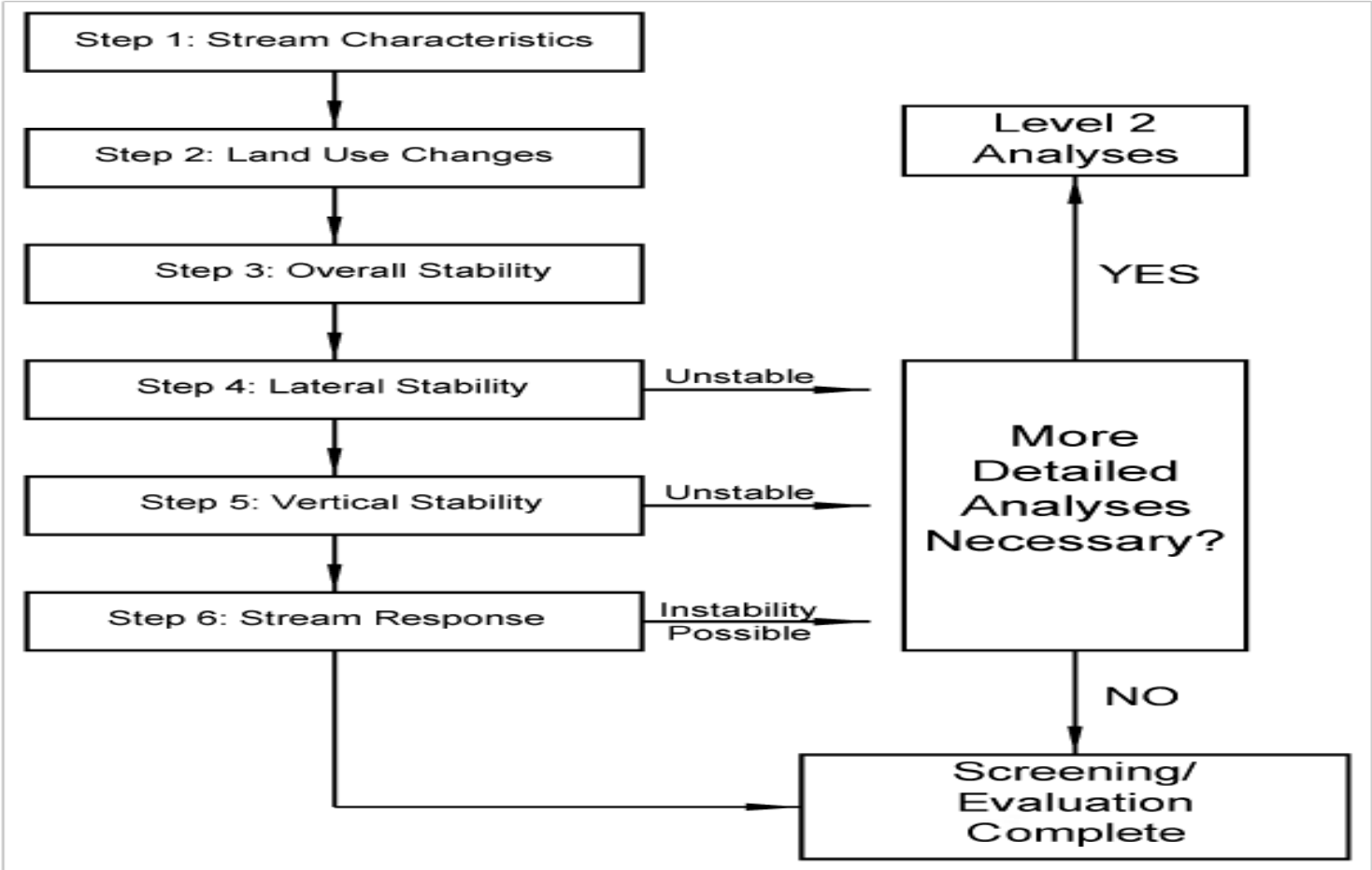
HEC-23

Bridge Scour and Stream Instability Countermeasures



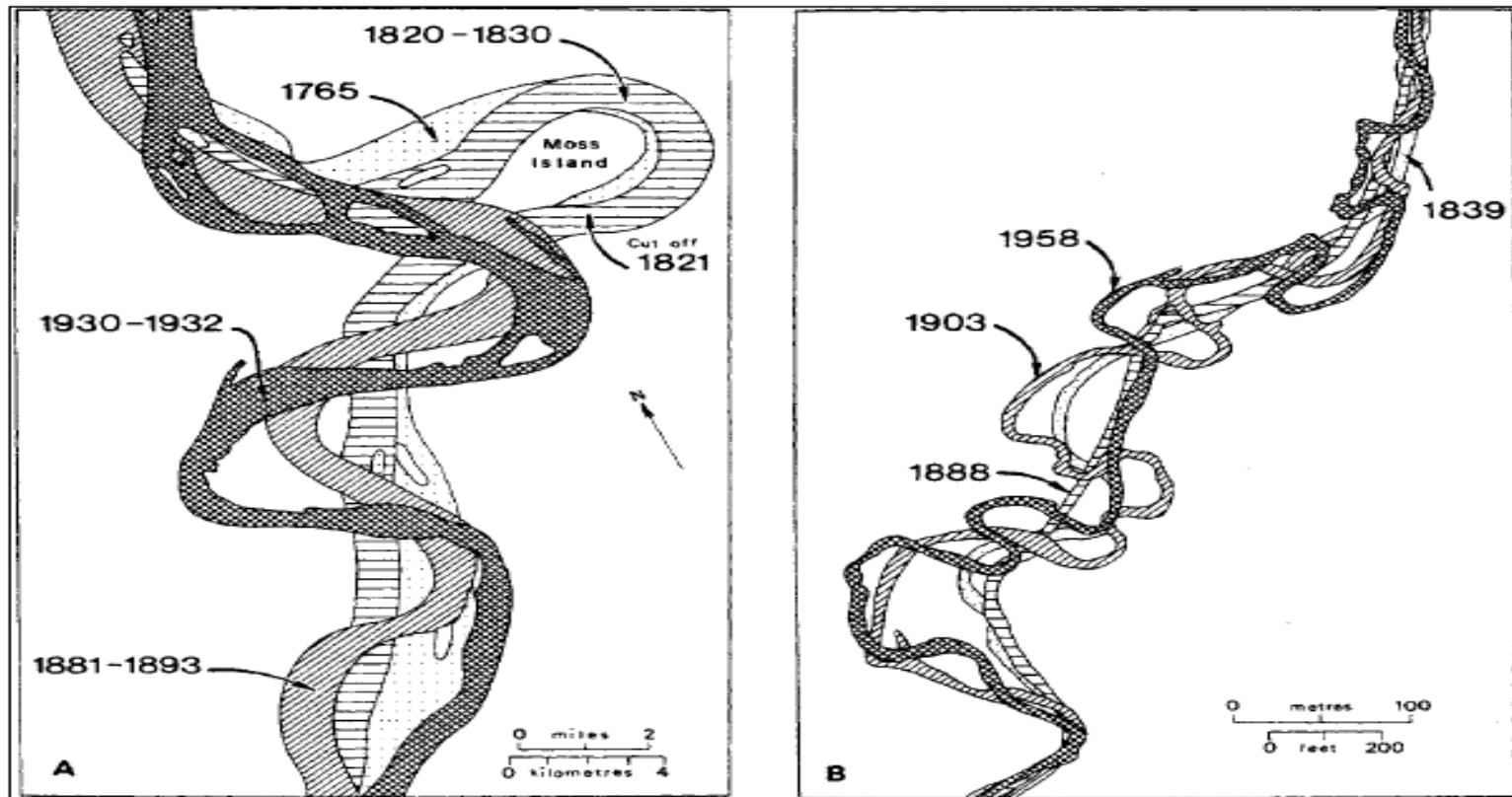
Water Crossings (continued)

■ Screening Analysis



Water Crossings (continued)

- Scour and Stream Stability Analysis and Evaluation
 - Photogrammetry – Historical Lateral Stability



Water Crossings (continued)

- Scour and Stream Stability Analysis and Evaluation
 - Geotechnical Assessment
 - Evaluation of the Stream's Past and Potential Future Meandering / Scouring
 - Evaluation of Structure Stability
 - Risk Assignment
 - Risk Management
 - Move It
 - Protect It
 - Monitor It
 - Control It

Thank you!

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