

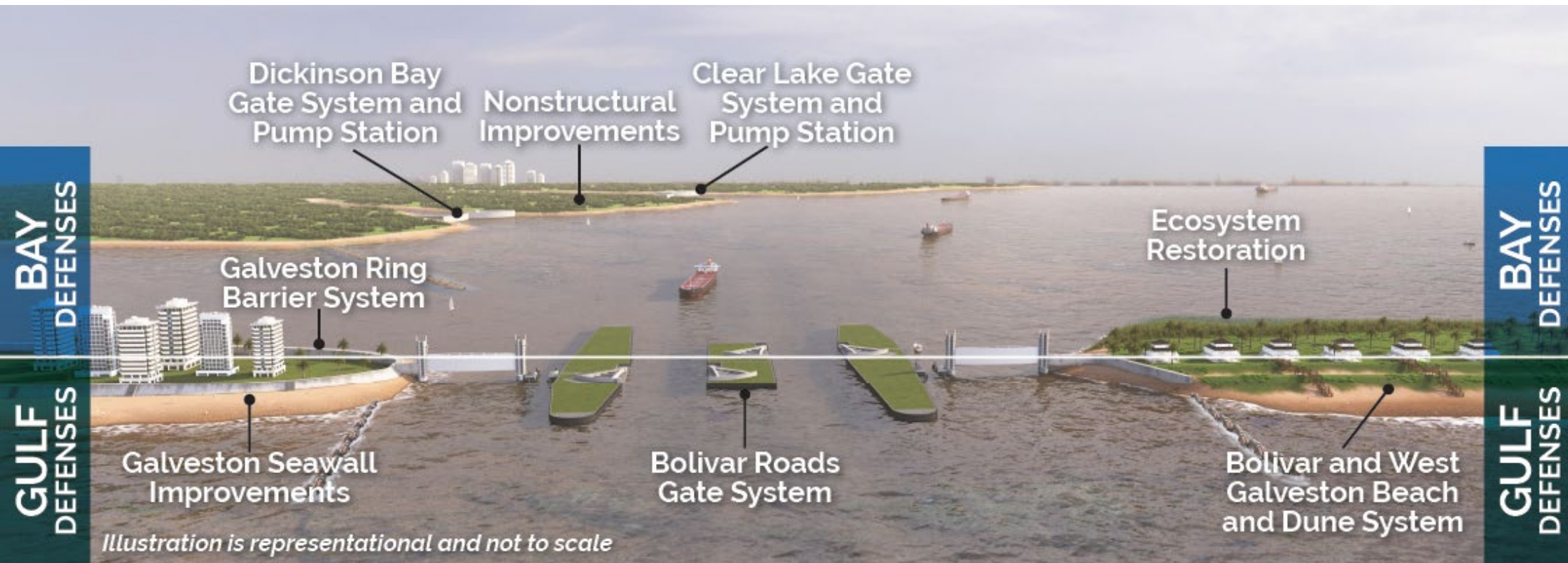
Gulf Coast Protection District and NEPA Compliance: Working with the “New NEPA”

**By Jim Blackburn
Outside Environmental Counsel to
Gulf Coast Protection District**

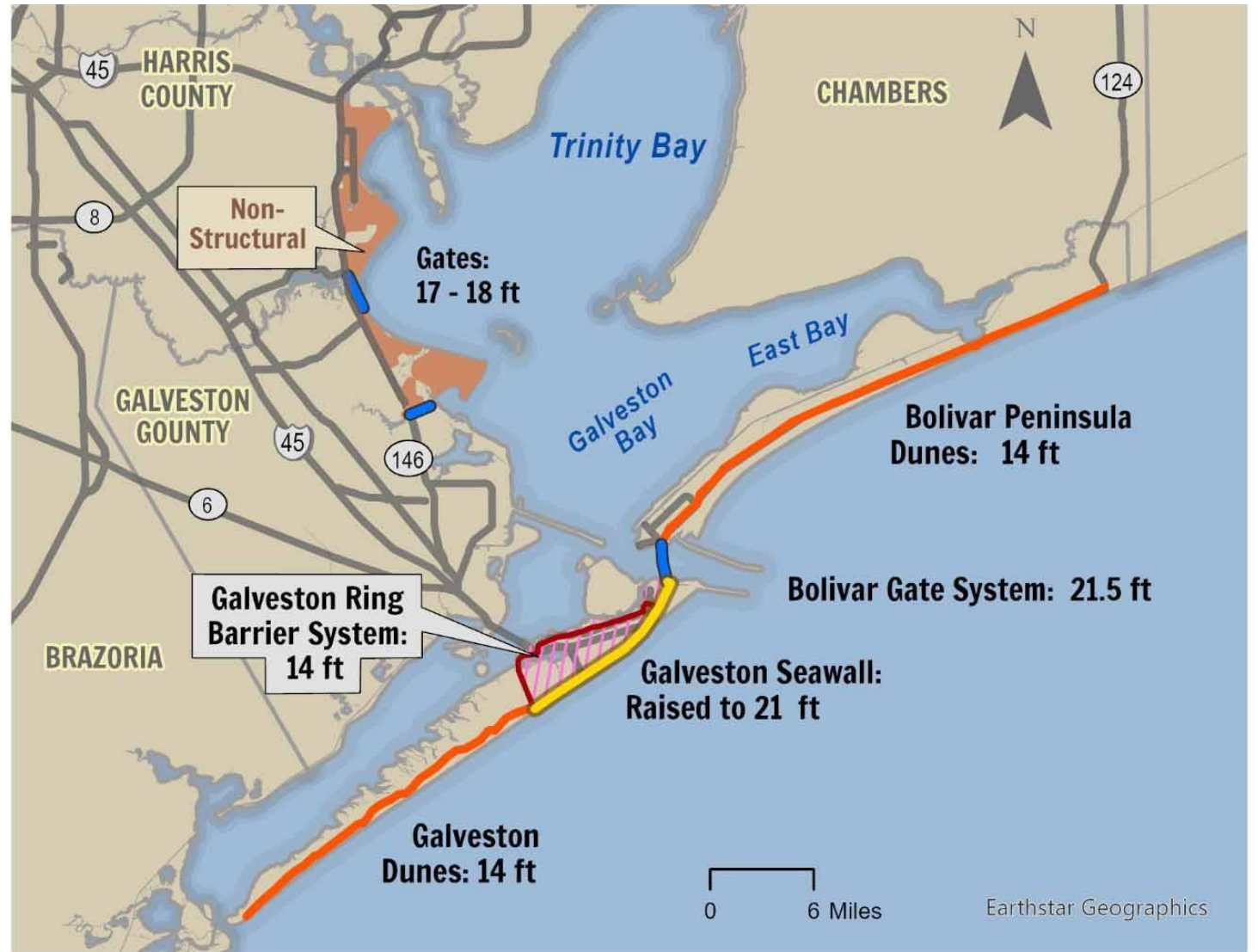
**Environmental Superconference
August 6, 2026**

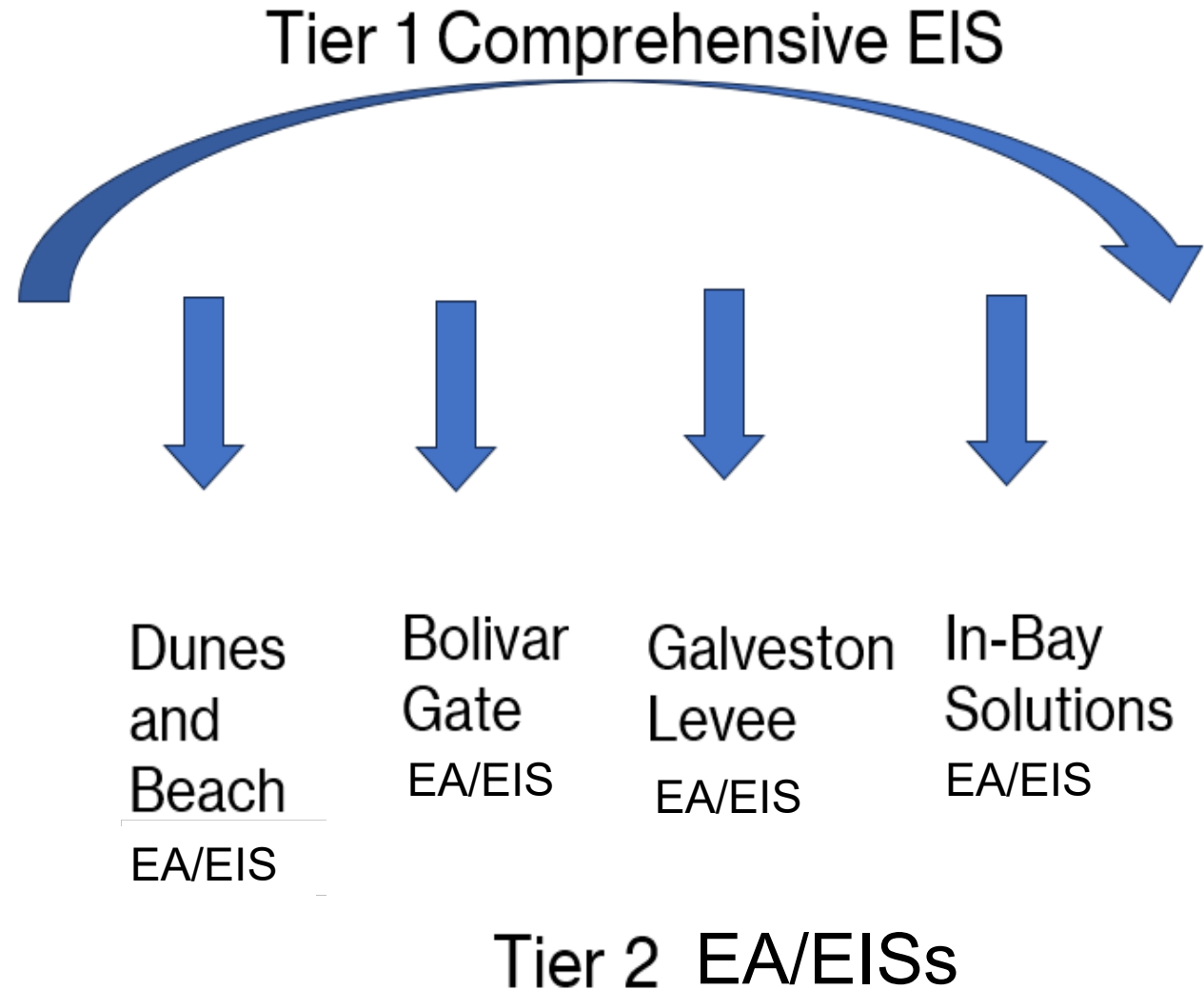
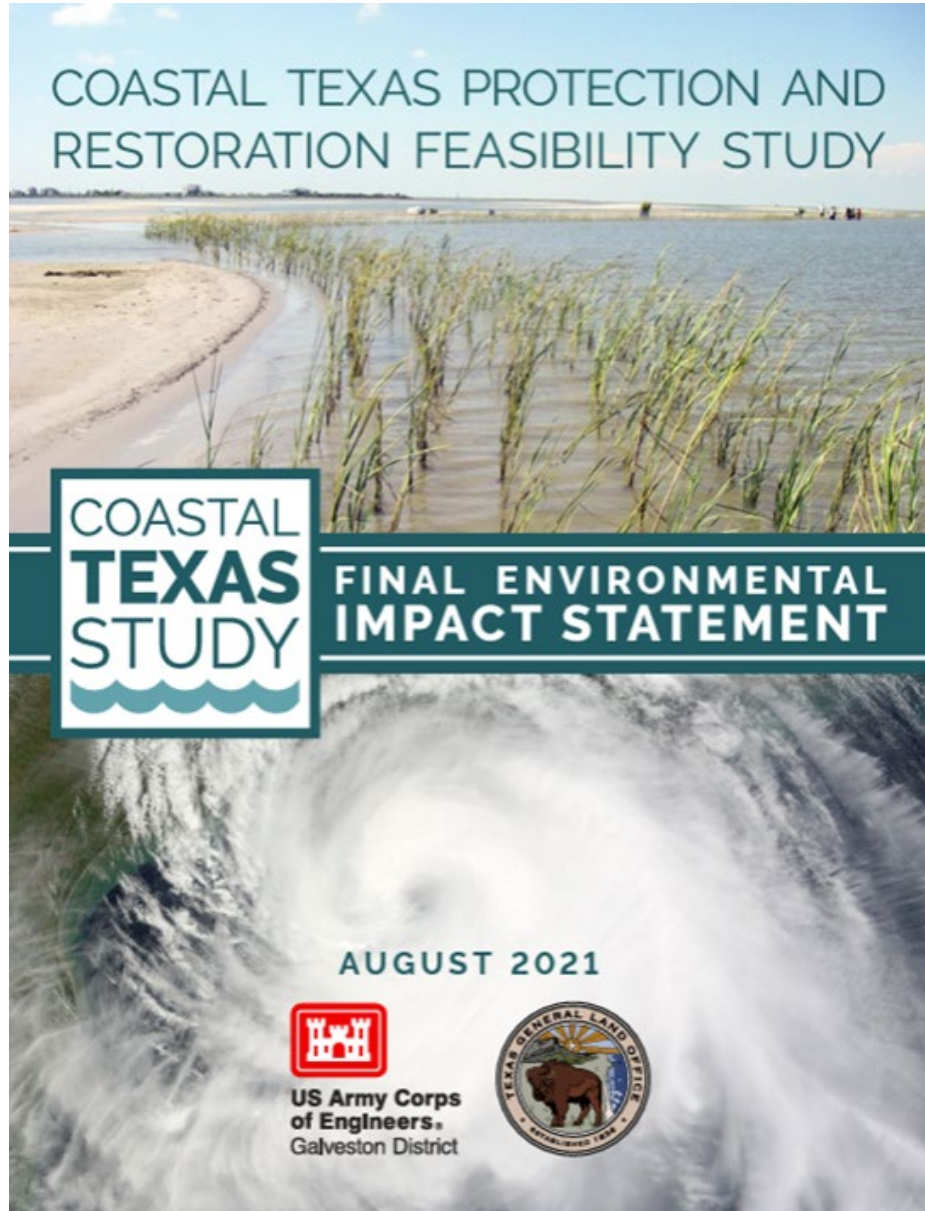
+/- \$35 Billion plus maintenance costs

Possibly largest flood protection project in U.S. History

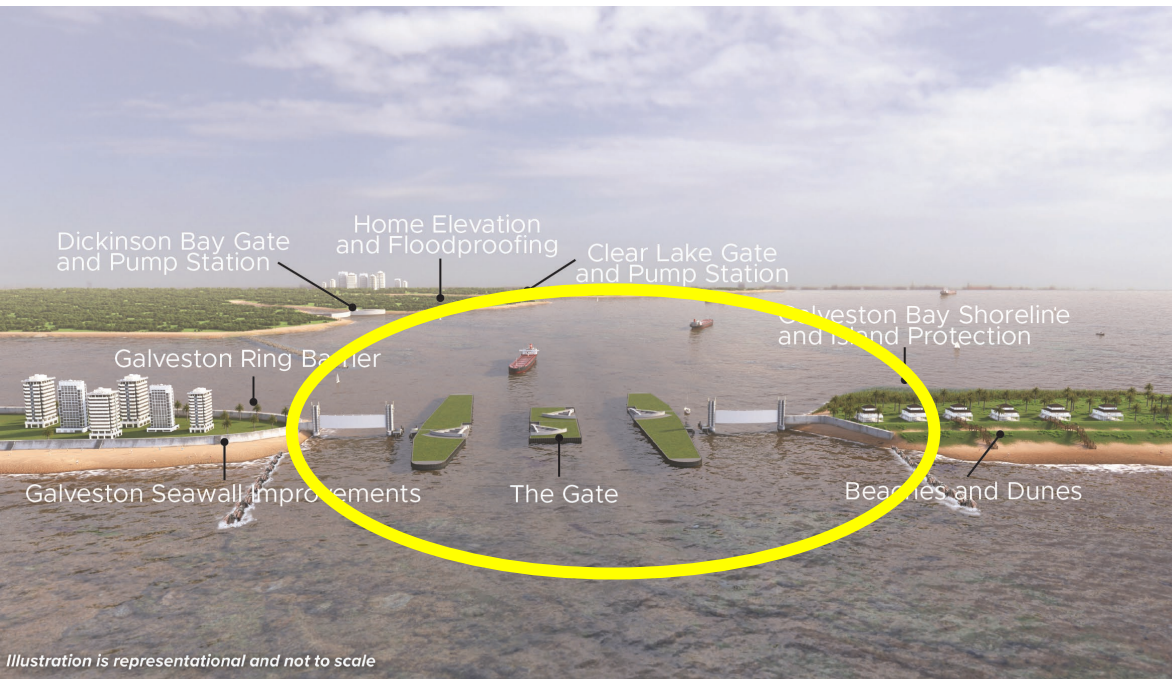


The Coastal Texas Project



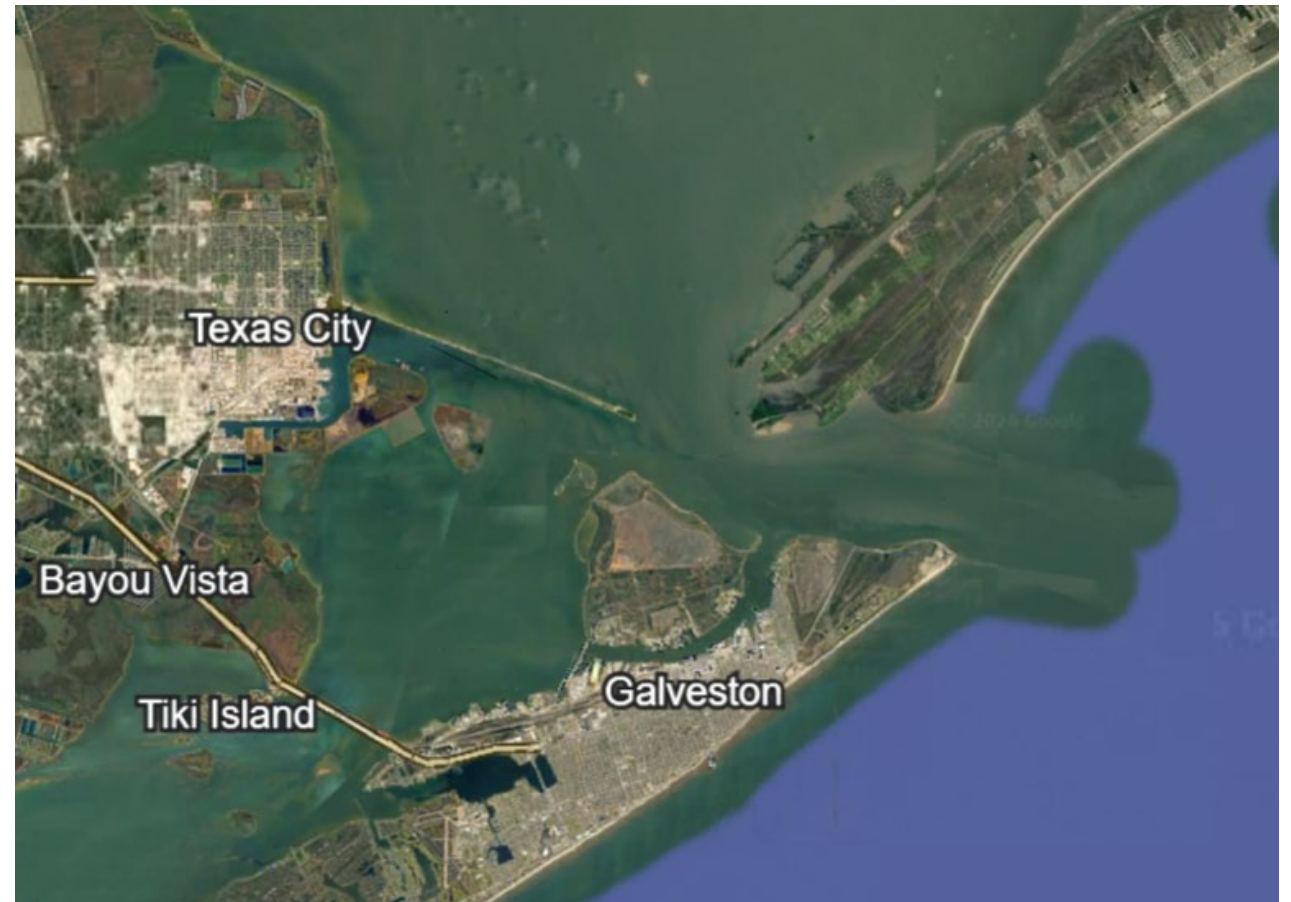


The Bolivar Gate





Galveston Bay Circulation



The New NEPA



Congress



U.S. Supreme Court



Trump Administration

***Congressional Action
During Biden
Administration***

Public Law 118-5

***Fiscal Responsibility
Act of 2023***

Fiscal Responsibility Act of 2023

**Section 102(2)(C) addition of word
“reasonable” to scope of EIS**

**Page Limits – 150 for most – 300 for
complex**

**Time Limit – 2 years from notice of intent
to record of decision**

Redefinition of major federal action

Greater use of electronic data systems

***Seven County
Infrastructure
Coalition v.
Eagle County***

**U.S. Supreme
Court**

- Case involves permitting of 88-mile RR by Surface Transportation Board
- EIS prepared – 3600 pages
- D.C. Circuit stopped project – failure to fully describe secondary (induced) impacts of oil field development and use of oil and gas on the Texas and Louisiana coast
- Supreme Court overturned by 8-0 decision

Seven County Infrastructure Coalition v. Eagle County **Court Findings**

- NEPA to inform agency decision-making, not paralyze it
- Deference
 - Factual scope of the EIS
- Scope of EIS
 - Must address scope of the project being considered
 - Scope includes agency's jurisdictional scope
 - How far to follow secondary and indirect impacts
 - Court much more comfortable with indirect than secondary
 - Unclear how “cumulative” impacts fit into this decision

Trump Administration Regulatory Changes

Executive Order 14154 “Unleashing American Energy”

Section 5 – Revoked EO 11991 directing federal Council on Environmental Quality (CEQ) to issue regulations

Directed CEQ to start steps to remove CEQ regulations at 40 CFR 1500

January 8, 2026 – CEQ issued final rule rescinding regulations

Trump Administration Regulatory Changes

By rescinding CEQ regulations, removed requirements for analyzing secondary and cumulative impacts

Regulations are now consistent with Public Law

Cumulative impacts removed by Trump 1 and reinstated by Trump 2 and now being removed again

Corps of Engineers (controlling Coastal Texas Project) rescinded NEPA regulations and is guided by general DOD guidance

Guidance gives broad discretion to analyze what is relevant to the project

The Coming of Artificial Intelligence to NEPA

PL 118-5 – encouraged development of electronic portals

“Updating Permitting Technology for the 21st Century”

- The Government does not properly leverage technology to effectively and efficiently evaluate environmental permits, causing significant delay to important infrastructure projects that impact our economic well-being. This will now change. My Administration will apply modern technologies to longstanding problems to deliver outstanding results at 21st-century speeds. To that end, and pursuant to the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

The Coming of Artificial Intelligence to NEPA

- “Updating Permitting Technology” Directs:
 - All agencies shall make maximum use of technology in environmental review for infrastructure projects
 - Eliminate the use of paper-based applications and review process
 - Accelerate (shorten) the review process without loss of quality
 - Reduce the length and increase accessibility to documents
 - Reduce duplicative data submissions
 - Increase interagency use of existing analyses
 - Eliminate agency coordination friction
 - Ensure top-flight legal defense of agency documents
 - Streamline the overall review process
 - Maintain readily available sources of information to aid judicial review

The Coming of Artificial Intelligence to NEPA

AI beginning to be implemented – limited to easier tasks

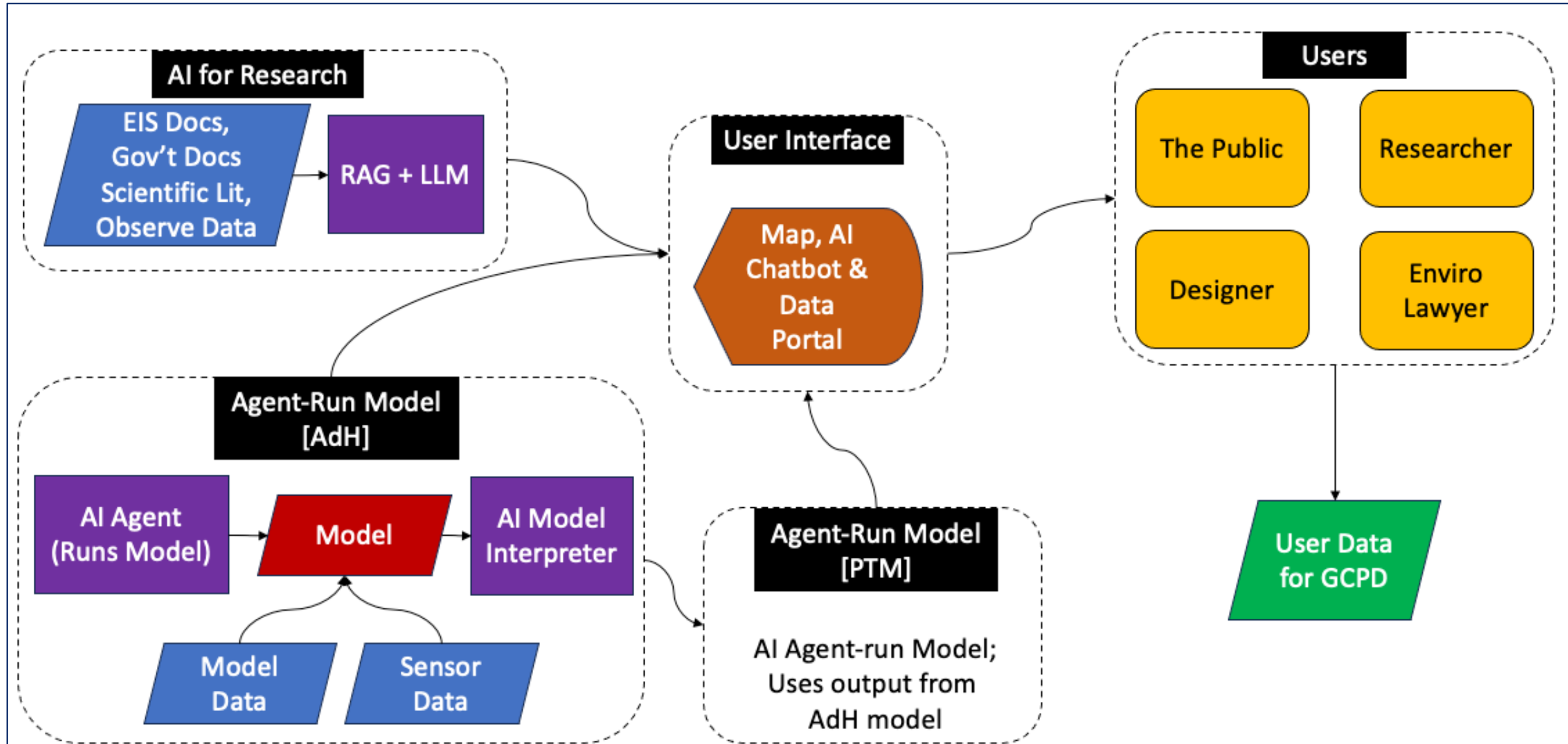
DOE plus Pacific Northwest National Laboratories taking the lead along with Corps of Engineers

Search NEPA – looks at past EISs

Chat NEPA – reviews past decisions

Engage NEPA – compiles public comments

Conceptual Approach to AI-Assisted EIS Being Developed by SSPEED Center, Rice U.



COASTAL TEXAS PROTECTION AND RESTORATION FEASIBILITY STUDY

COASTAL
TEXAS
STUDY

FINAL ENVIRONMENTAL
IMPACT STATEMENT

AUGUST 2021



US Army Corps
of Engineers
Galveston District



Tier 1 Comprehensive EIS

