



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CA 90017-3401

December 15, 2015

Scott Quinnell, Senior Environmental Planner
California Department of Transportation, District 8
464 West 4th Street
San Bernardino, California 92401-1400

SUBJECT: Approved Jurisdictional Determination regarding geographic jurisdiction

Dear Mr. Quinnell:

I am responding to your request (File No. SPL-2015-00572-TWJ) dated October 15, 2015, for an approved Department of the Army jurisdictional determination (JD) associated with proposed bridge replacement and road maintenance work along Interstate 10 (I-10) at Tex Wash (Lat/Long: 33.70477°N,-115.44216°W) and several ditches (Bula, Taro, Adair, Hillock, and Wide). The project sites are located between realigned Post Mile 97.81 and realigned Post Mile 104.7 along I-10, near the City of Blythe, Riverside County, California.

The Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. If both tests are met, a permit would likely be required. The first test determines whether or not the proposed project is located within the Corps' geographic jurisdiction (i.e., it is within a water of the United States). The second test determines whether or not the proposed project is a regulated activity under section 10 of the Rivers and Harbors Act or section 404 of the Clean Water Act. This evaluation pertains only to geographic jurisdiction.

Based on available information, I have determined waters of the United States do not occur on the project site. The basis for our determination can be found in the enclosed Approved Jurisdictional Determination (JD) form(s).

The aquatic resources identified as "Tex Wash and associated ditches" in project documentation you provided are intrastate, isolated, non-navigable waters with no apparent interstate or foreign commerce connection. As such, these aquatic resources are not currently regulated by the Corps of Engineers. This disclaimer of jurisdiction is only for section 404 of the Clean Water Act. Other federal, state, and local laws may apply to your activities. In particular, you may need authorization from the California State Water Resources Control Board, the California Department of Fish and Wildlife, and/or the U.S. Fish and Wildlife Service.

This letter includes an approved jurisdictional determination for the proposed bridge replacement and roadway maintenance work at Tex Wash and associated ditches located between realigned Post Mile 97.81 and realigned Post Mile 104.7. If you wish to submit new information regarding this jurisdictional determination, please do so within 60 days. We will

consider any new information so submitted and respond within 60 days by either revising the prior determination, if appropriate, or reissuing the prior determination. If you object to this or any revised or reissued jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you wish to appeal this decision, you must submit a completed RFA form within 60 days of the date on the NAP to the Corps South Pacific Division Office at the following address:

Tom Cavanaugh
Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Pacific Division, CESPDPDS-O, 2042B
1455 Market Street
San Francisco, California 94103-1399

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR section 331.5 (see below), and that it has been received by the Division Office by **February 13, 2016**.

This determination has been conducted to identify the extent of the Corps' Clean Water Act jurisdiction on the particular project site identified in your request, and is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

Thank you for participating in the regulatory program. If you have any questions, please contact Tim Jackson at 213-452-3419 or via e-mail at Timothy.W.Jackson@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosure(s)

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: California Department of Transportation, D8, (POC: Scott Quinnell)		File Number: SPL-2015-00572-TWJ	Date:12/15/2015
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Tim Jackson
Regulatory Division
U.S. Army Corps of Engineers, Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017
Phone: (213) 452-3419
Email: timothy.w.jackson@usace.army.mil

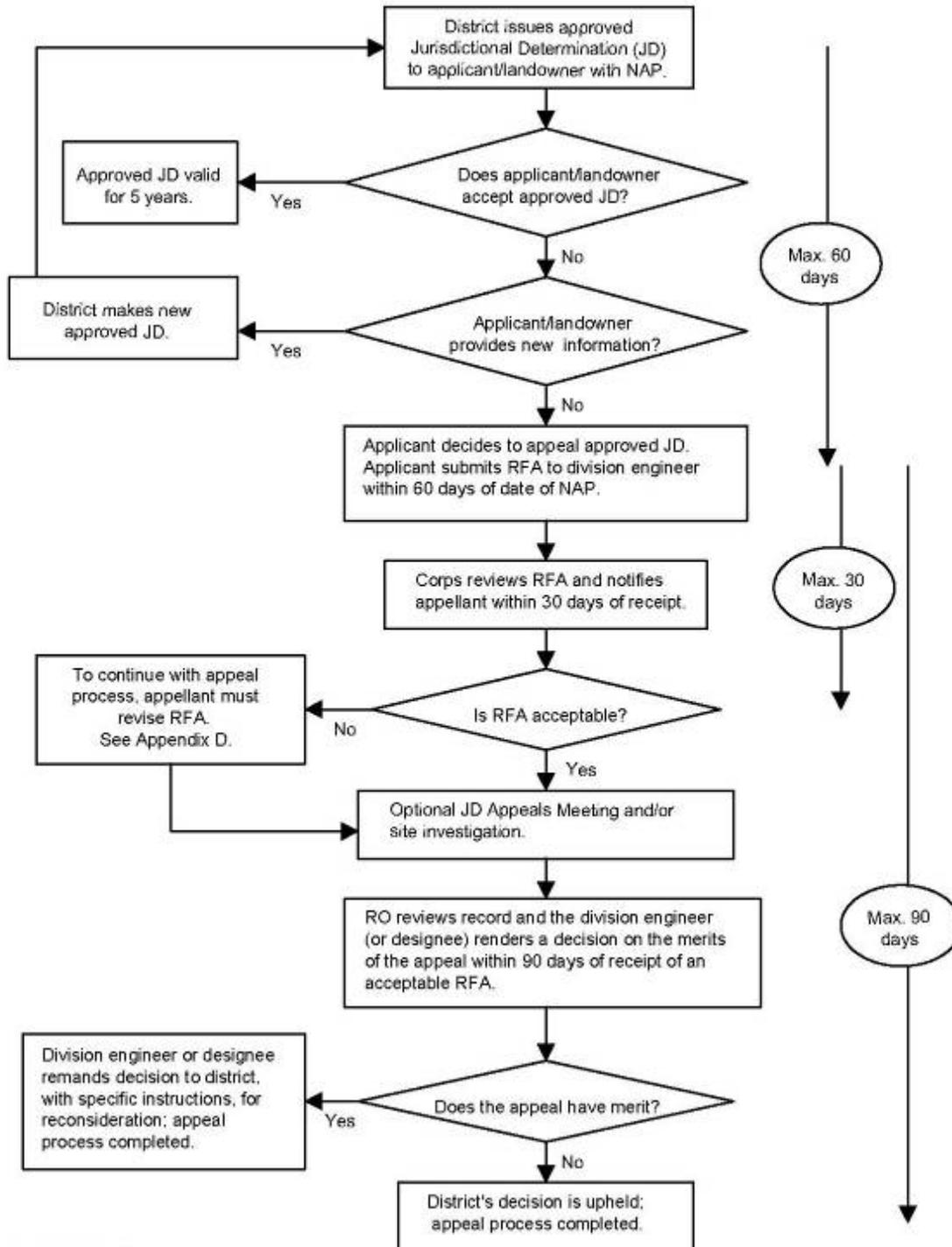
If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer,
U.S. Army Corps of Engineers
South Pacific Division
1455 Market Street, 2052B
San Francisco, California 94103-1399
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: thomas.j.cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<hr/> Signature of appellant or agent.	Date:	Telephone number:
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Administrative Appeal Process for Approved Jurisdictional Determinations



§ 331.5 Criteria.

(a) *Criteria for appeal* —(1) *Submission of RFA*. The appellant must submit a completed RFA (as defined at §331.2) to the appropriate division office in order to appeal an approved JD, a permit denial, or a declined permit. An individual permit that has been signed by the applicant, and subsequently unilaterally modified by the district engineer pursuant to 33 CFR 325.7, may be appealed under this process, provided that the applicant has not started work in waters of the United States authorized by the permit. The RFA must be received by the division engineer within 60 days of the date of the NAP.

(2) *Reasons for appeal*. The reason(s) for requesting an appeal of an approved JD, a permit denial, or a declined permit must be specifically stated in the RFA and must be more than a simple request for appeal because the affected party did not like the approved JD, permit decision, or the permit conditions. Examples of reasons for appeals include, but are not limited to, the following: A procedural error; an incorrect application of law, regulation or officially promulgated policy; omission of material fact; incorrect application of the current regulatory criteria and associated guidance for identifying and delineating wetlands; incorrect application of the Section 404(b)(1) Guidelines (see 40 CFR Part 230); or use of incorrect data. The reasons for appealing a permit denial or a declined permit may include jurisdiction issues, whether or not a previous approved JD was appealed.

(b) *Actions not appealable*. An action or decision is not subject to an administrative appeal under this part if it falls into one or more of the following categories:

(1) An individual permit decision (including a letter of permission or a standard permit with special conditions), where the permit has been accepted and signed by the Permittee. By signing the permit, the applicant waives all rights to appeal the terms and conditions of the permit, unless the authorized work has not started in waters of the United States and that issued permit is subsequently modified by the district engineer pursuant to 33 CFR §325.7;

(2) Any site-specific matter that has been the subject of a final decision of the Federal courts;

(3) A final Corps decision that has resulted from additional analysis and evaluation, as directed by a final appeal decision;

(4) A permit denial without prejudice or a declined permit, where the controlling factor cannot be changed by the Corps decision maker (e.g., the requirements of a binding statute, regulation, state Section 401 water quality certification, state coastal zone management disapproval, etc. (See 33 CFR §320.4(j)));

(5) A permit denial case where the applicant has subsequently modified the proposed project, because this would constitute an amended application that would require a new public interest review, rather than an appeal of the existing record and decision;

(6) Any request for the appeal of an approved JD, a denied permit, or a declined permit where the RFA has not been received by the division engineer within 60 days of the date of the NAP;

(7) A previously approved JD that has been superseded by another approved JD based on new information or data submitted by the applicant. The new approved JD is an appealable action;

(8) An approved JD associated with an individual permit where the permit has been accepted and signed by the Permittee;

(9) A preliminary JD; or

(10) A JD associated with unauthorized activities except as provided in §331.11.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** November 20, 2015
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, SPL-2015-00572-TWJ
C. PROJECT LOCATION AND BACKGROUND INFORMATION: The project is sited along Interstate 10 (I-10) from realigned Post Mile (PM) 97.81 to realigned PM 104.7, approximately 1 to 7 miles southwest from the census designated place of Desert Center. The specific project locations are at Bula Ditch (PM 97.81), Taro Ditch (PM 99.04), Adair Ditch (100.38), Hillock Ditch (PM 100.68), Wide Ditch (101.14), and Tex Wash (PM 102.6). The project is entirely replacing the damaged eastbound bridge that crosses Tex Wash along I-10. In addition, the project is adding bank reinforcement to the abutments of the westbound Tex Wash bridge. At the aforementioned ditches, the project is removing vegetation, rebuilding berms and stream banks and replacing rock slope protection. Finally, the project is clearing silt and soil that has blocked unnamed culverts within the project's post-mile limits. Construction access to Tex Wash and ditches would occur from the median and banks next to the highway.

State: CA County/parish/borough: Riverside City:
Center coordinates of site (lat/long in degree decimal format): Lat. 33.70477° N, Long. -115.44216° W.
Universal Transverse Mercator: NAD83 / UTM Zone 11S 644366 E, 3730511 N

Name of nearest waterbody: Ford Dry Lake

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: None

Name of watershed or Hydrologic Unit Code (HUC): HUC 12 - 181001004805 and 181001004901

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: November 20, 2015

Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters¹ (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs (no adjacent wetlands)
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs (with a surface connection) that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters – *Complete III.D.7 and the appropriate sections for the impounded waters*
- Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet: width (ft) and/or acres.

Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: Pick List

Elevation of established OHWM (if known): .

¹ For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

2. **Non-regulated waters/wetlands (check if applicable):²**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

The project spans Tex Wash, Bula Ditch, Taro Ditch, Adair Ditch, Hillock Ditch and Wide Ditch and several unnamed aquatic features- all of which are located in the Chuckwalla Valley groundwater basin. These features have intermittent flow regimes, are non-navigable, and lack any substantial interstate commerce connection. Tributaries of the features originate in the Chuckwalla Mountain foothills (according to Desert Center US Geological Survey 7.5' Quadrangle and US Geological Survey's National Hydrographic Database [NHD]) just south of the project site. According to the Project Limits map the rock slope protection-reinforced streambed of Tex Wash is approximately 55 feet wide. Bula Ditch is 80 feet wide, Taro Ditch is 66 feet wide, Adair Ditch is 20 feet wide, Hillock Ditch is 20 feet wide, and Wide Ditch is 72 feet wide, approximately. None of these aquatic features bear, nor are they adjacent to, any wetlands as defined by 33 CFR §328.3(b).

According to the NHD, Tex Wash flows northward from the project site and terminates in the desert floor, approximately 3,300 feet north from I-10. The ditches flow northeastward from I-10 and terminate 7 miles northeast of the project site, in proximity to other intermittent streams' apparent termini. However, according to AJD SPL-2014-00497-VCL, streams in the area flow north of the site and eventually drain into Palen Dry Lake and ultimately drain into Ford Dry Lake. Such is the case for Desert Center Wash, which is also an intermittent stream within the same watershed as Tex Wash and the ditches. The U.S. Army Corps of Engineers concurred with Caltrans that Desert Center Wash is not a water of the United States as defined in the Clean Water Act. Desert Center Wash in AJD SPL-2014-00497-VCL, identified as Desert Center Ditch on the attached Hydrologic Connectivity map, is included as a geographic reference only. Desert Center Ditch is not part of AJD SPL-2015-00572-TWJ. Further evidence for Tex Wash and the ditches not being jurisdictional follows: they do not have the capacity to support interstate or foreign commerce and they do not have surface connectivity to, and neither are they adjacent to, any traditional navigable waters [33 CFR §328.3(a) (1) & (2)]. Tex Wash and the ditches are not used by interstate or foreign travelers for recreational or other purposes that require surface flows [33 CFR §328.3(a)(3)(i)]. Tex Wash and the ditches do not support fish or shellfish which could be taken and sold for recreational or other purposes in interstate or foreign commerce [33 CFR §328.3(a)(3)(ii)].

Tex Wash, Bula Ditch, Taro Ditch, Adair Ditch, Hillock Ditch and Wide Ditch flow north from the I-10 and eventually drain into Palen Dry Lake and then to Ford Dry Lake. Due to increased elevation there is no surface or shallow subsurface connection between Ford Dry Lake and the Colorado River (Traditional Navigable Water). The distance between Ford Dry Lake and the Colorado River is approximately 24 miles. There are no flows conveyed either on the surface or shallow subsurface from the non-regulated waters to the Colorado River.

Considering the above information, Tex Wash, Bula Ditch, Taro Ditch, Adair Ditch, Hillock Ditch and Wide Ditch are not waters of the United States according to 33 CFR §328.3.

² Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: _____ .

Summarize rationale supporting determination: _____ .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”: _____ .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody³ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List**
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: _____ .

Identify flow route to TNW⁴: _____ .

³ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁴ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural
 Artificial (man-made). Explain: .
 Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):

Average width: . feet
Average depth: . feet
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

Silts Sands Concrete
 Cobbles Gravel Muck
 Bedrock Vegetation. Type/% cover:
 Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .

Presence of run/riffle/pool complexes. Explain: .

Tributary geometry: Pick List

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Pick List

Estimate average number of flow events in review area/year: Pick List

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: Pick List. Characteristics: .

Subsurface flow: Pick List. Explain findings: .

Dye (or other) test performed: .

Tributary has (check all that apply):

Bed and banks
 OHWM⁵ (check all indicators that apply):
 clear, natural line impressed on the bank the presence of litter and debris
 changes in the character of soil destruction of terrestrial vegetation
 shelving the presence of wrack line
 vegetation matted down, bent, or absent sediment sorting
 leaf litter disturbed or washed away scour
 sediment deposition multiple observed or predicted flow events
 water staining abrupt change in plant community
 other (list):
 Discontinuous OHWM.⁶ Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by: Mean High Water Mark indicated by:
 oil or scum line along shore objects survey to available datum;
 fine shell or debris deposits (foreshore) physical markings;
 physical markings/characteristics vegetation lines/changes in vegetation types.
 tidal gauges
 other (list):

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: .

Identify specific pollutants, if known: .

⁵A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁶Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings:

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW: N/A**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: _____ acres

Wetland type. Explain: _____

Wetland quality. Explain: _____

Project wetlands cross or serve as state boundaries. Explain: _____

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: _____

Surface flow is: **Pick List**

Characteristics: _____

Subsurface flow: **Pick List**. Explain findings: _____

Dye (or other) test performed: _____

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: _____

Ecological connection. Explain: _____

Separated by berm/barrier. Explain: _____

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: _____

Identify specific pollutants, if known: _____

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: _____

Habitat for:

Federally Listed species. Explain findings: _____

Fish/spawn areas. Explain findings: _____

Other environmentally-sensitive species. Explain findings: _____

Aquatic/wildlife diversity. Explain findings: _____

3. **Characteristics of all wetlands adjacent to the tributary (if any): N/A**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately (_____) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
 TNWs: linear feet width (ft), Or, acres.
 Wetlands adjacent to TNWs: acres.
2. **RPWs that flow directly or indirectly into TNWs.**
 Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
 Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters:

3. **Non-RPWs⁷ that flow directly or indirectly into TNWs.**
 Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

⁷See Footnote # 3.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
 - Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁸

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):⁹

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters: .
- Wetlands: acres.

⁸ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

⁹ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., streams) combined: **1,692** linear feet **313** width (ft).
Approximate measurements of individual aquatic resources within project area:
Tex Wash: 282 linear ft. (length), 55 ft. (width)
Bula Ditch: 282 linear ft. (length), 80 ft. (width)
Taro Ditch: 282 linear ft. (length), 66 ft. (width)
Adair Ditch: 282 linear ft. (length), 20 ft. (width)
Hillcock Ditch: 282 linear ft. (length), 20 ft. (width)
Wide Ditch: 282 linear ft. (length), 72 ft. (width)
- Lakes/ponds: . acres.
- Other non-wetland waters: . acres. List type of aquatic resource: .
- Wetlands: . acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): . linear feet, . width (ft).
- Lakes/ponds: . acres.
- Other non-wetland waters: . acres. List type of aquatic resource: .
- Wetlands: . acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Desert Center quadrangle, 1:24k scale
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: U. S. Fish and Wildlife Service. Mojave Desert. 2014. National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. <http://www.fws.gov/wetlands/>.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: . (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google. www.google.com. Accessed July 20, 2015
or Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: Los Angeles District, SPL-2012-00359-JEM, May 29th 2012; Los Angeles District SPL-2014-00497-VCL, January 14th, 2015.
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

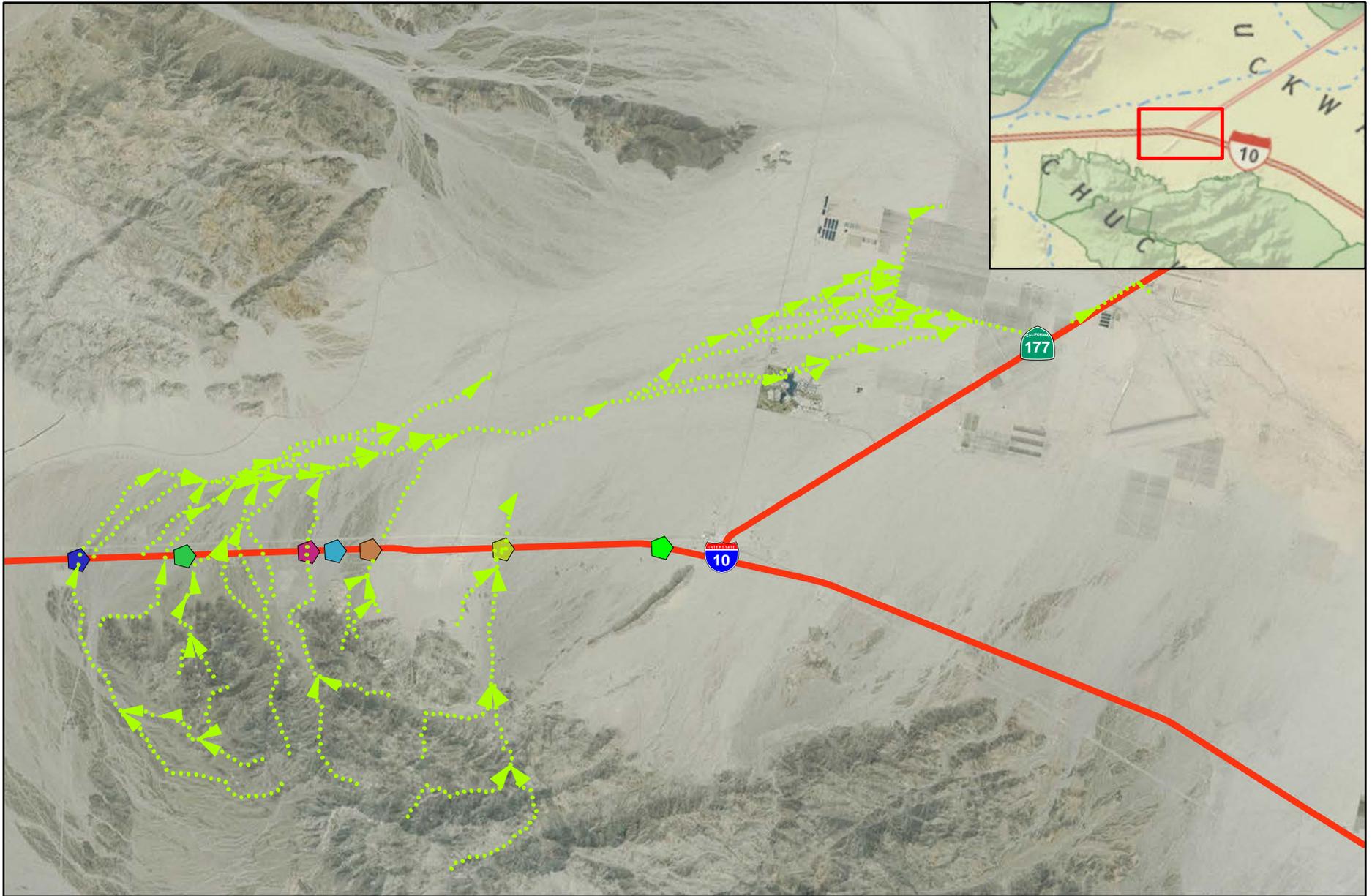
B. ADDITIONAL COMMENTS TO SUPPORT JD: As explained above, Tex Wash and the ditches are in the same watershed as Desert Center Wash. All of these aquatic features flow north from the I-10 and eventually drain into Palen Dry Lake and then to Ford Dry Lake. Due to increased elevation there is no surface or shallow subsurface connection between Ford Dry Lake and the Colorado River

(Traditional Navigable Water). The distance between Ford Dry Lake and the Colorado River is approximately 24 miles. There are no flows conveyed either on the surface or shallow subsurface from the non-regulated waters to the Colorado River.

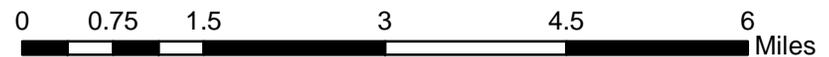
Desert Center Washes Hydrologic Connectivity

1G510 Desert Center Washes Bridge Washout and Emergency Culvert Work

California Department of Transportation



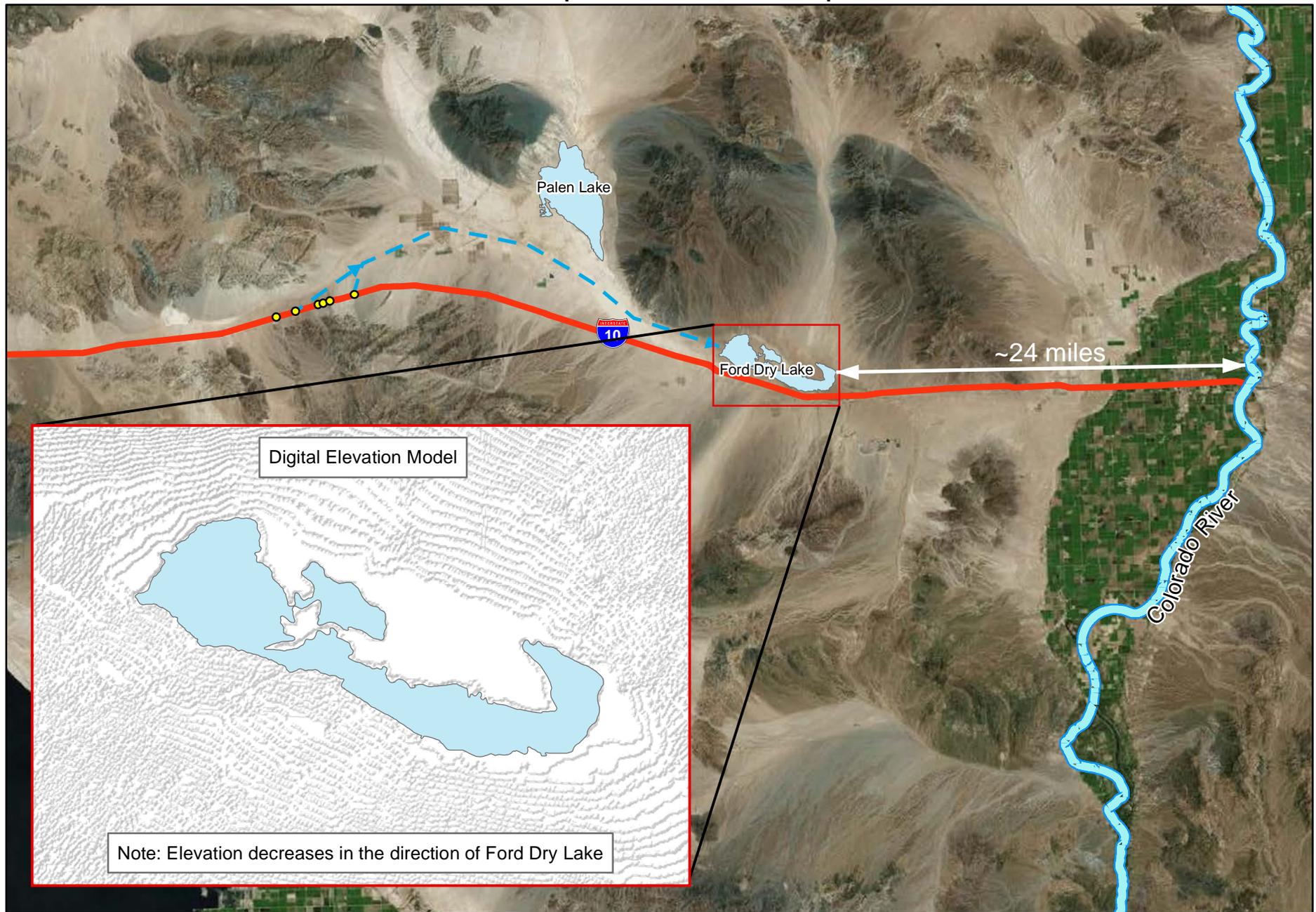
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|--|---------------------|--|---------------|--|------------|
| | NHD Stream | | Bula Ditch | | Tex Wash |
| | Desert Center Ditch | | Hillock Ditch | | Wide Ditch |
| | Adair Ditch | | Taro Ditch | | |



Desert Center Washes Regional Hydrology

1G510 Deser Center Bridge Washout and Emergency Culvert Work

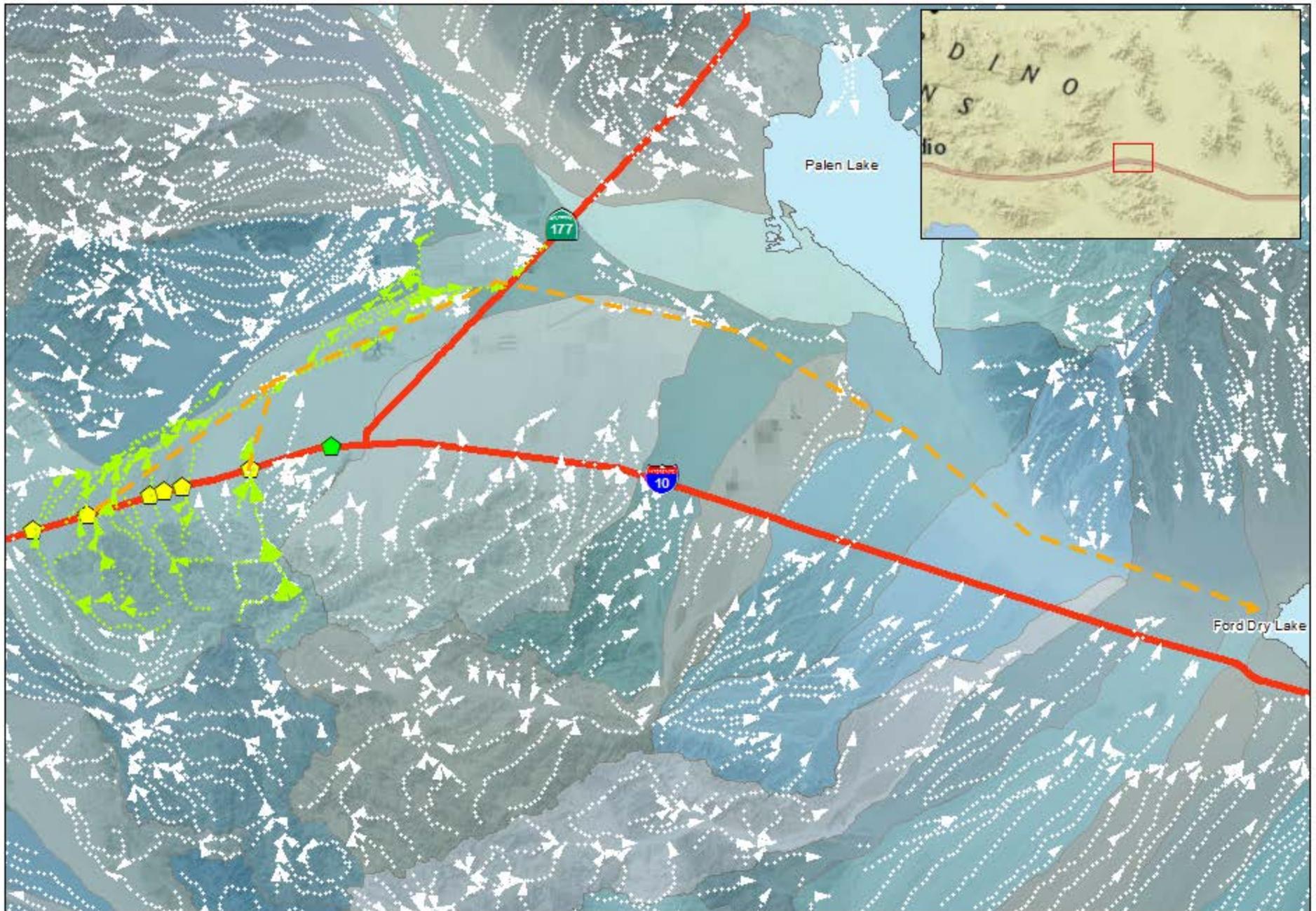
California Department of Transportation



● Project Locations - - - -> Presumed Hydrologic Path



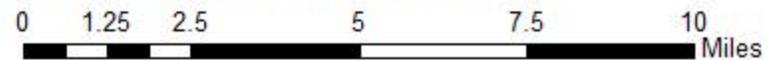
1G510 Desert Center Washes Regional Hydrology Bridge Washout Replacement and Emergency Culvert Work California Department of Transportation



-  Stream
-  Project Locations
-  Presumed Hydrologic Path
-  Desert Center Ditch



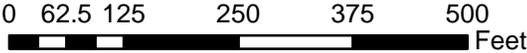
Note: HUC 12 watersheds are shown on top of the basemap in blue.



Bula Ditch National Wetlands Inventory
1G510 Desert Center Washes Bridge Washout and Emergency Culvert Work
California Department of Transportation



Note: No National Wetlands Inventory wetlands were found in the Bula Ditch area shown here



Taro Ditch National Wetlands Inventory
1G510 Desert Center Washes Bridge Washout and Emergency Culvert Work
California Department of Transportation



 NWI Wetlands



0 62.5 125 250 375 500 Feet



Adair Ditch National Wetlands Inventory
1G510 Desert Center Washes Bridge Washout and Emergency Culvert Work
California Department of Transportation



 NWI Wetlands



0 62.5 125 250 375 500 Feet



Hillock Ditch National Wetlands Inventory
1G510 Desert Center Washes Bridge Washout and Emergency Culvert Work
California Department of Transportation



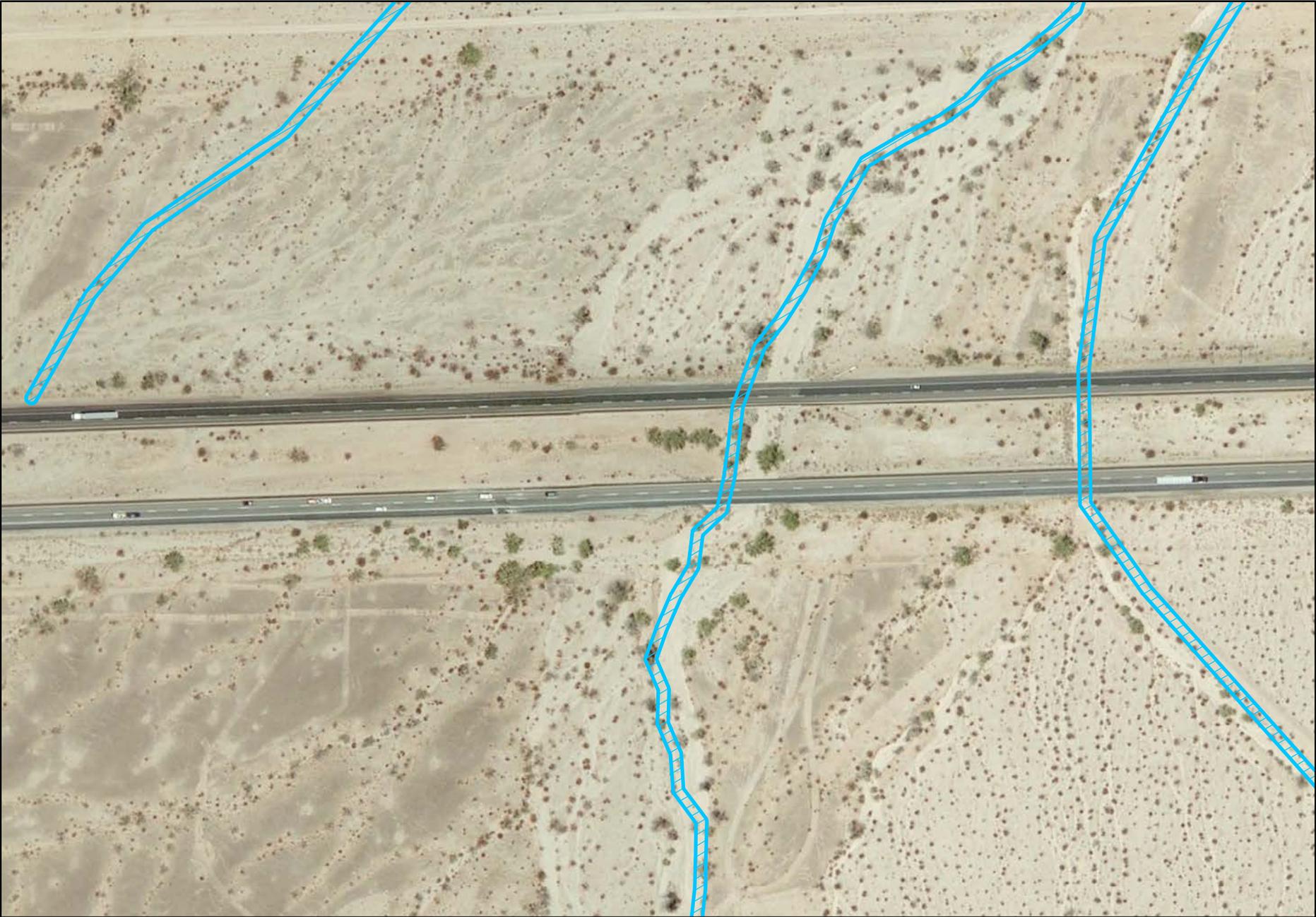
 NWI Wetlands



0 62.5 125 250 375 500 Feet



Wide Ditch National Wetlands Inventory
1G510 Desert Center Washes Bridge Washout and Emergency Culvert Work
California Department of Transportation



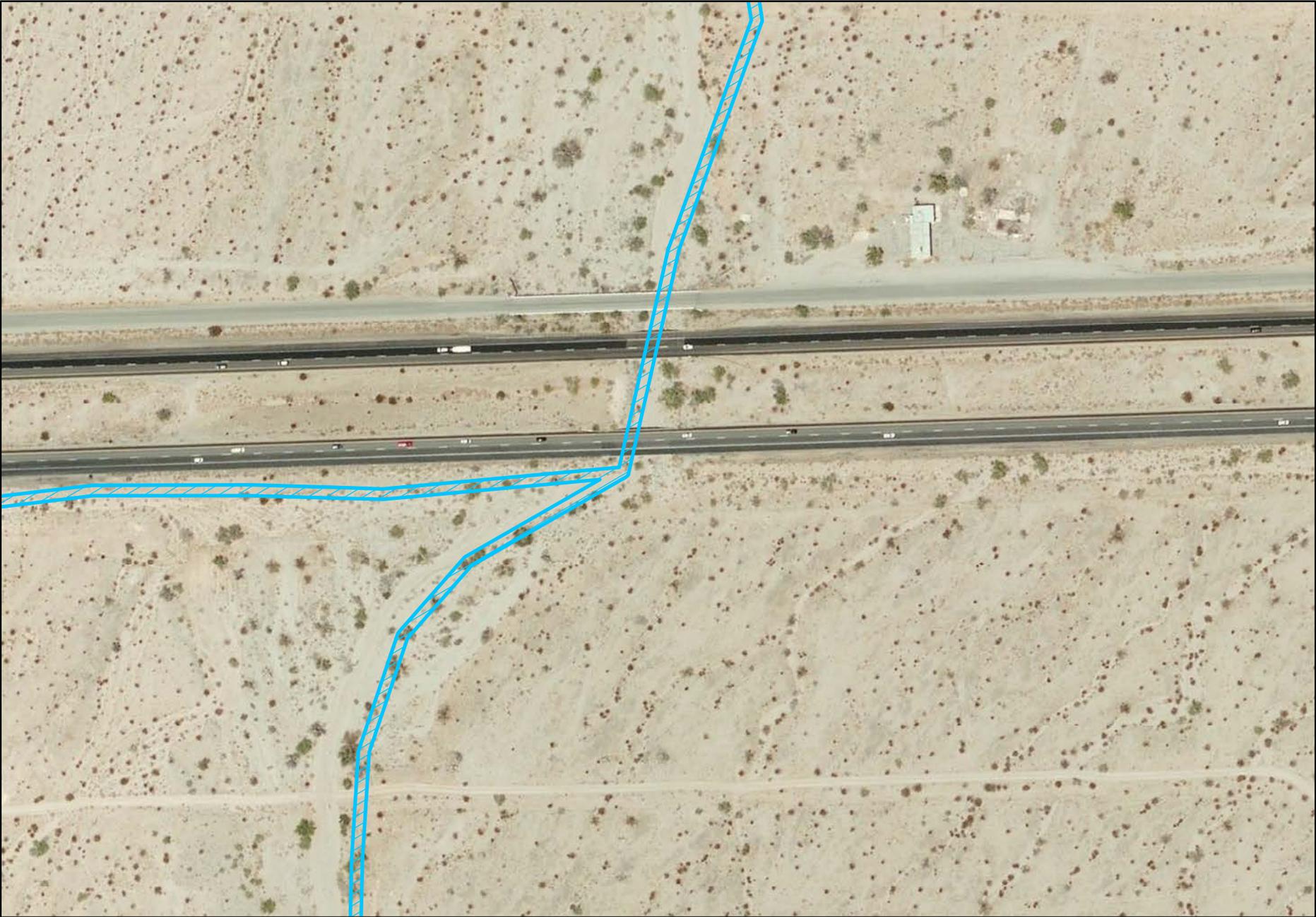
 NWI Wetlands



0 62.5 125 250 375 500 Feet



Tex Wash National Wetlands Inventory
1G510 Desert Center Washes Bridge Washout and Emergency Culvert Work
California Department of Transportation



 NWI Wetlands



0 62.5 125 250 375 500 Feet

