

# **PUBLIC NOTICE**

#### U.S. ARMY CORPS OF ENGINEERS LOS ANGELES DISTRICT

### **BUILDING STRONG®**

#### APPLICATION FOR PERMIT SR189, International Border to Grand Avenue

Public Notice/Application No.: SPL-2011-00467 Project: SR 189, International Border to Grand Avenue (189 SC 0000 H8045 01L) Comment Period: September 17, 2019 through October 18, 2019 Project Manager: Jesse Rice; (602) 230-6854; Jesse.M.Rice@usace.army.mil

#### Applicant

Rod Lane Arizona Department of Transportation 1221 South 2nd Avenue (T100) Tucson, Arizona 85713-1602

#### **Contact**

Israel Garcia Arizona Department of Transportation 1611 W. Jackson Street MD EM02 Phoenix, Arizona 85007

#### **Location**

Mariposa Wash and two other unnamed washes within the city of Nogales, Santa Cruz County, AZ (Latitude: 31.3498859725251, Longitude: -110.950266756543).

#### <u>Activity</u>

The Arizona Department of Transportation (ADOT) is proposing to increase traffic capacity, improve operational efficiency, and improve scour protection and stormflow capacity along State Route (SR) 189 between the Mariposa Port of Entry and Grand Avenue in Nogales, Arizona. Within waters of the U.S., ADOT is proposing to extend two culverts in unnamed washes and replace a bridge in Mariposa Wash at the SR189-Interstate 19 traffic interchange (see attached drawings). For more information, see Additional Project Information section below.

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawings. We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS REGULATORY DIVISION ATTN: Jesse Rice 3636 North Central Avenue Suite 900 Phoenix, AZ 85012-1939

Alternatively, comments can be sent electronically to: <u>Jesse.M.Rice@usace.army.mil</u>

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

#### **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

#### Preliminary Review of Selected Factors

**<u>EIS Determination</u>**- A preliminary determination has been made an environmental impact statement is not required for the proposed work.

<u>Water Quality</u>- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the Arizona Department of Environmental Quality. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management - Not applicable within the State of Arizona.

**Essential Fish Habitat**- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

<u>Cultural Resources</u>- The Federal Highway Administration (FHWA) is the lead federal agency for the project and has completed consultation with interested parties regarding cultural resources. Documentation regarding these resources has been provided by the applicant and has been reviewed by the District Engineer.

**Endangered Species**- Preliminary determinations indicate the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

<u>Public Hearing</u>- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

#### Proposed Activity for Which a Permit is Required

<u>Basic Project Purpose</u>- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). Because no fills are proposed within special aquatic sites, identification of the basic project purpose is not necessary.

<u>Overall Project Purpose</u>- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to alleviate congestion along SR189 for the safe transportation of people and goods in the Nogales Region.

#### **Additional Project Information**

<u>Baseline information- The</u> project area is primarily within the existing right-of-way of SR 189 and the surrounding land use is predominately commercial or industrial development. Regionally the

vegetation is in a transition area between the Madrean Evergreen Woodland and Semidesert Grassland biotic communities, with grassland vegetation and mesquite dominating.

The project area is in the Upper Santa Cruz sub watershed (Hydrologic Unit Code 15050301). Mariposa Wash is the major water body in the project. Mariposa Wash flows northeast through the project area into Nogales Wash, approximately ¼ mile east of the project area near Grand Avenue. Nogales Wash ultimately flows to the Santa Cruz River, approximately 6 miles north of the project area.

Mariposa Wash is an ephemeral stream system consisting of a sandy bottom with upland vegetation. Dominant shrub species in the project vicinity include desert broom (Baccharis sarothroides) and velvet mesquite (Prosopis velutina). The understory is dominated by invasive grasses including Lehmann lovegrass (Eragrostis lehmanniana), Johnson grass (Sorghum halepense), buffelgrass (Pennisetum ciliare), and Bermuda grass (Cynodon dactylon).

Within the project area, the Mariposa wash ranges from six to 375 feet wide. Mariposa Wash loses a defined channel and a clear OWHM through a grassy area beneath the SR 189 bridge and widens to approximately 375 feet before reestablishing a well-defined channel ranging from six to 15 feet wide north of the Mariposa TI. One tributary of Mariposa Wash is a concrete-lined channel that flows north along the western side of Grand Avenue before flowing into Mariposa Wash. All other WOUS in the project area exhibit natural, sandy-bottomed channels.

<u>Project description-</u> ADOT is proposing to increase traffic capacity, improve operational efficiency, and improve scour protection and storm flow capacity along SR 189 between the Mariposa Port of Entry and Grand Avenue in Nogales, Arizona. ADOT would achieve this by changing access control, redesigning intersections, and completing selected areas of roadway widening. Construction within waters of the U.S would occur within two unnamed washes and within Mariposa Wash. In the unnamed washes, ADOT would extend two existing culverts to accommodate the wider roadway and improve storm flow. At the first wash, ADOT would extend an existing 10' by 4' concrete box culvert by 37'. New headwalls would be constructed and dumped riprap placed at both ends of the culvert in order to provide scour protection and energy dissipation. At the second wash, ADOT would remove and replace the downstream end section to construct a new headwall. Dumped riprap would also be placed at the downstream end to provide scour protection and energy dissipation. Construction in these unnamed washes would take up to a couple of months.

At Mariposa Wash, ADOT would reconstruct the traffic interchange (TI) between SR 189 and Interstate 19, which is directly adjacent to the wash. ADOT would first conduct geotechnical investigations within jurisdictional areas by excavating several test pits and 6-10" diameter core borings to an unknown depth. Excavated areas would be restored to pre-investigation elevations when complete. Once investigations are complete and design is finalized, ADOT would proceed with construction by removing the existing bridge and bridge piers. This bridge would be placed with two new bridges to carry traffic traveling eastbound and westbound through the TI on SR 189/Mariposa Road. New piers for both bridges would also be located in jurisdictional portions of Mariposa Wash. Existing streambed and bank protection consisting of riprap and soil cement would be replaced and/or expanded to provide adequate storm flow protection to the new bridge structures.

In addition to the new bridges, ADOT would also construct two new flyover ramps that would provide a more direct connection between SR 189 to Interstate 19 and provide grade separation at Frank Reed Road. Three piers (one for the southbound ramp and two for the northbound ramp) would be located in waters of the U.S. Activities in Mariposa Wash may last up to a year in order to construct all of the structures.

Impacts to waters of the U.S. are outlined in the table below. Please see the attached drawings and impact sheets for additional information.

Drainage Name	Amount of Waters (ac)	Permanent Impacts (ac)	Extended Temporary Impacts (ac) (>6 months)	Temporary Impacts (ac)
Mariposa Wash (JD Wash # W2)	7.12 (all Mariposa Wash)	1.19	0.68	1.53
Unnamed wash 800 feet south of Loma Mariposa Road (JD Wash # W4)	0.1	0.01	0	0.002
Unnamed wash approximately 730 feet south of Target Range Road (JD Wash # W5)	0.1	0.001	0	0.0004
Totals (Acre)	7.3	1.20	0.68	1.53

ADOT is developing and constructing this project through a design-build method of project delivery, where a design-build team is responsible for final design and construction of the project. At this time, some aspects of the project are still in development (e.g. number and locations of geotechnical investigations, bridge design, riprap size, extent of bridge scour protection). However, major aspects of the project are not expected to change and environmental commitments have been placed on the design-build team to avoid and minimize impacts to waters of the U.S. If a permit is issued, ADOT will be required to provide the Corps with final design information prior to construction to ensure that all potential impacts to jurisdictional resources have been fully considered and mitigated.

<u>Proposed Mitigation</u> – The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance: To protect the bridge piers from erosion by flows within Mariposa Wash, scour protection will be constructed around the piers and within the streambed. Gabions and soil cement were previously installed within the channel under the existing bridge and extend both up and downstream of the structure. Because the piers and scour protection are located within the Ordinary High Water Mark of Mariposa Wash, the jurisdictional limits of Mariposa Wash cannot be avoided.

Minimization: ADOT has proposed to implement the following actions to minimize impacts to waters of the U.S.:

- During final design, streambed and bank protection will be designed in a manner to provide adequate scour protection while minimizing impacts to waters of the U.S.
- Access for construction of the flyover ramps and will occur via Industrial Park Drive, the ADOT right-of-way immediately west of the ramp connecting SR 189 to southbound I-19, and/or the acquired right-of-way on the north (west) side of SR 189.
- The areas to be used for staging and stockpiling of equipment and materials will be located outside of the jurisdictional limits of the Mariposa Wash.
- Incorporation of best management practices (BMPs) designed to reduce erosion, minimize sedimentation, and eliminate non-stormwater pollutants as identified in ADOT's Erosion and

Pollution Control Manual For Highway Design and Construction (2012), and ADOT's Standard Specifications for Road and Bridge Construction (2008). Restrictions and requirements that will be incorporated into the project consist of the following:

- In accordance with the requirements of the Arizona Pollutant Discharge Elimination System Construction General Permit, a Stormwater Pollution Prevention Plan (SWPPP) will be prepared during project design and shall be implemented by the contractor during construction.
- No construction activities shall be conducted with the Mariposa Wash during storm events or other periods when high flows are present.
- During the geotechnical investigations, any water that accumulates in the test pits shall be filtered to remove sediment prior to being dispersed back into Mariposa Wash using one of several options, including filter socks, a combination of filter socks and rock bags, or allowing it to settle into a basin.
- No materials or equipment shall be stored or stockpiled with the ordinary high water mark of the Mariposa Wash overnight.
- Any excess excavation or other materials shall be backfilled or moved to the designated area before the end of the same working day.
- Upon project completion, all disturbed areas, both inside and outside the OHWM, shall be restored to their original contours, elevations, and/or uses. Previously vegetated areas shall be restored by seeding and/or planting native species at a ratio similar to the pre-construction condition.

Compensation: ADOT has proposed to mitigate for permanent impacts and long-term temporary impacts (those occurring for longer than six months) to waters of the U.S. through in-lieu fees. Advance credits would be purchased from the Tucson Audubon's in-lieu fee program at a 1:1 ratio or higher.

#### **Proposed Special Conditions**

The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

#### 1. Mitigation.

Within 60 days of permit issuance and prior to initiating construction in waters of the U.S., the Permittee shall provide documentation verifying purchase of 1.88 advance credits from the Corpsapproved Tucson Audubon in-lieu fee program (ILFP). These credits will mitigate for 1.20 acres of permanent impacts and 0.68 acre of extended, temporary impacts to ephemeral waters of the U.S at a 1.00:1.00 ratio. The Permittee shall not initiate work in waters of the U.S. prior to receiving written confirmation (by letter or e-mail) from the Corps Regulatory Division as to compliance with this special condition. The Permittee retains responsibility for providing the compensatory mitigation until the number and resource type of credits described above have been secured from Tucson Audubon and the district engineer has received documentation that confirms that Tucson Audubon has accepted the responsibility for providing the required compensatory mitigation in accordance with the ILFP instrument.

#### 2. Notification.

The permittee shall provide notification, either written or verbal, to the Corps of Engineers at least one week prior to the start of work, as to the anticipated beginning and ending dates of construction. The permittee shall allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished within the terms and conditions of the permit.

#### 3. Final Design and Impact Sheets.

Due to the design-build nature of this project, and since final design has not been completed, the permittee shall provide final design drawings and impact sheets to the Corps prior to initiating construction. If the design or impacts to waters of the U.S. have changed since permit issuance, permit modification and additional compensatory mitigation may be required. The Permittee shall not initiate work in waters of the U.S. prior to receiving written confirmation (by letter or e-mail) from the Corps Regulatory Division as to compliance with this special condition.

#### 4. Permit Availability.

A copy of this permit and its attachments shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all construction representatives. The permittee shall require that all construction representatives read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

#### 5. Flagging of Project Boundaries.

The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. shown on the impact sheets. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

#### 6. Temporary Fills.

Temporary fills must consist of materials, and placed in a manner, that will not be eroded by expected high flows. No stockpiling or staging of materials and equipment is authorized within waters of the U.S. Temporary haul roads or detours that are placed across WUS shall be designed so that expected flows are not blocked or impounded. After construction activity is completed, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations, to the maximum extent possible. The location of the temporary fills must avoid the removal of mature trees, utilize previously disturbed areas to the maximum extent possible, and minimize the total area of disturbance. All project areas disturbed by construction-related activities must be stabilized and upland areas reseeded with native seed mixture once construction is complete.

#### 8. Maintenance of Flows.

No work shall occur in any water of the U.S. if flows are present. Appropriate measures shall be taken to maintain near-normal downstream flows and minimize flooding during construction. Flows shall not be diverted outside of the ordinary high water mark of any water of the U.S.

#### 9. Fill Free of Contaminants.

All fill placed in waters of the U.S. must be of suitable material (no trash, debris, asphalt, etc.). All discharges of fill material into waters of the U.S. must be free from toxic pollutants in toxic amounts (Section 307 of the CWA).

#### 10. Invasive species.

The Permittee is responsible for controlling and preventing the spread of noxious invasive species in waters of the U.S. The Permittee shall utilize integrated vegetation and pest management practices in accordance with State and Federal Laws and Executive Orders to manage invasive species in waters of the U.S.

#### 11. Migratory Birds and Bald and Golden Eagles.

The Permittee is responsible for ensuring their action complies the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The Permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether incidental take permits are necessary and available for a particular activity.

For additional information, please call Jesse Rice of my staff at (602) 230-6854 or via e-mail at Jesse.M.Rice@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.

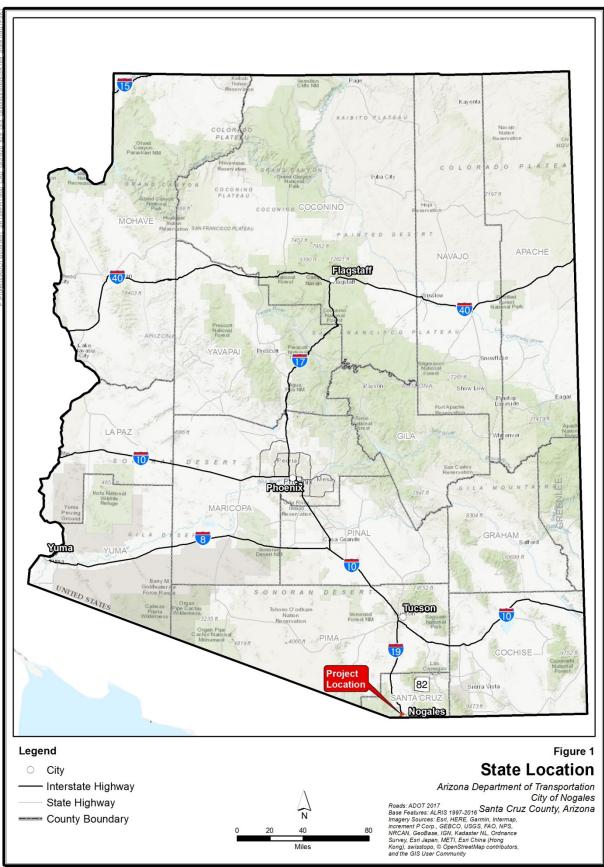


Regulatory Program Goals:

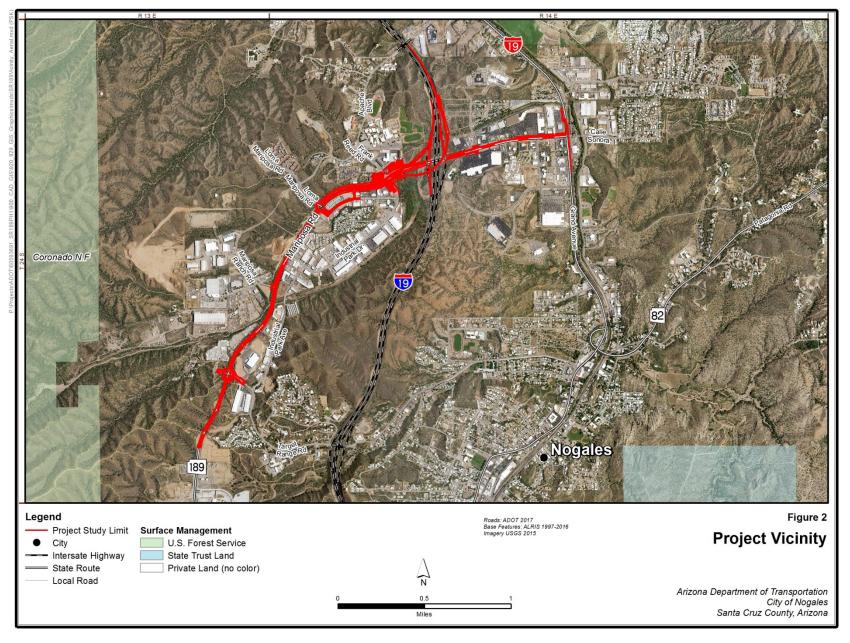
- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
  - To enhance the efficiency of the Corps' administration of its regulatory program.

DEPARTMENT OF THE ARMY LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS 3636 North Central Avenue Suite 900 Phoenix, AZ 85012-1939 WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY





1 ayo J2 UI U2





#### Legend

Survey Boundary

Ordinary High Water Mark

Waters of the U.S.

XXX Permanent Impacts to WOUS \_\_\_\_ Map Index

Temporary Impacts to WOUS

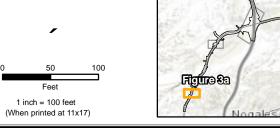
New Riprap
Culvert Extension

ision — Local Road

Interchange Structure Surface Management

----- State Route

Private Land (no color)

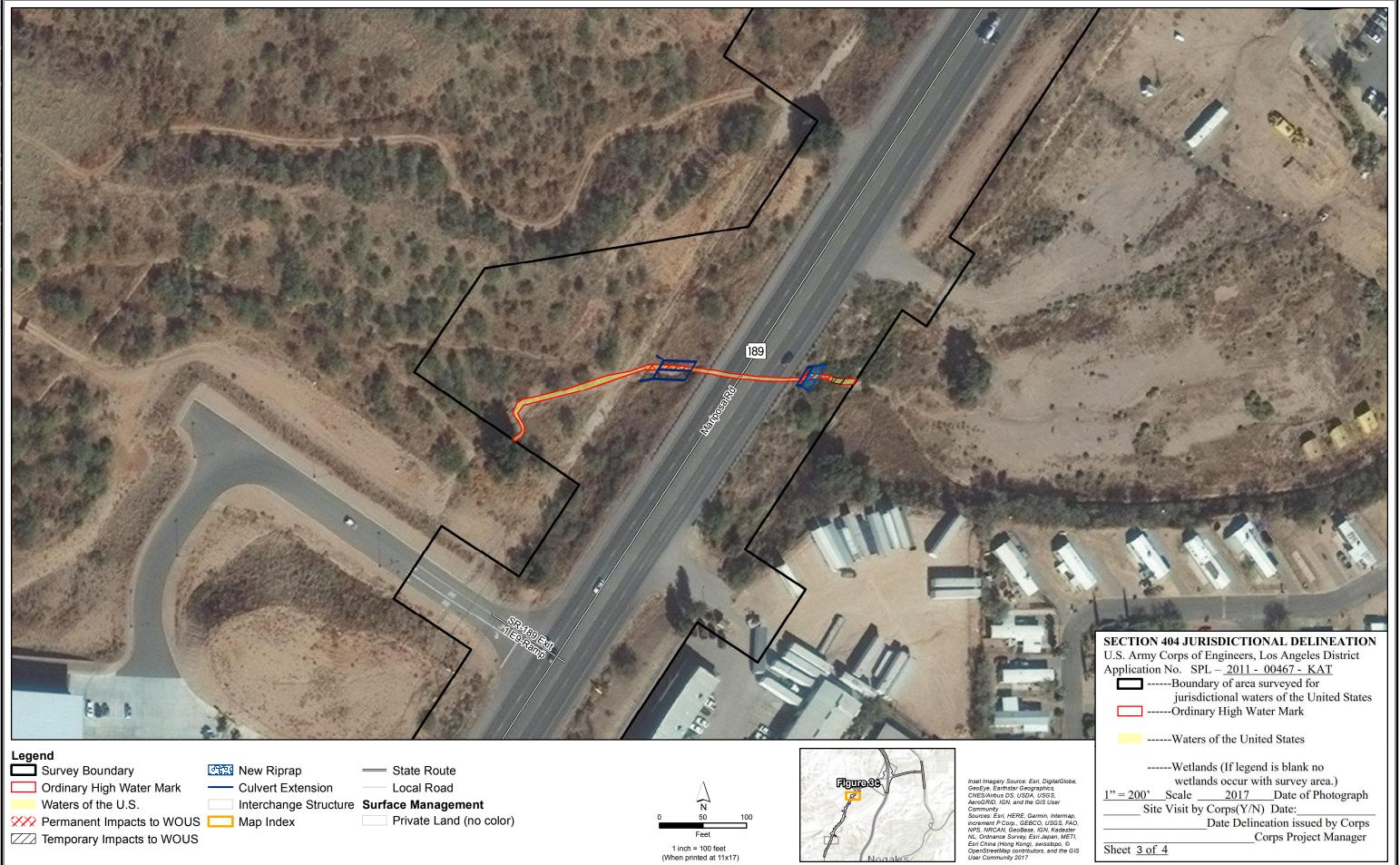


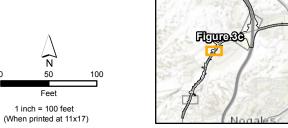
Inset Imagery Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstop, © OpenStreetMap contributors, and the GIS User Community 2017

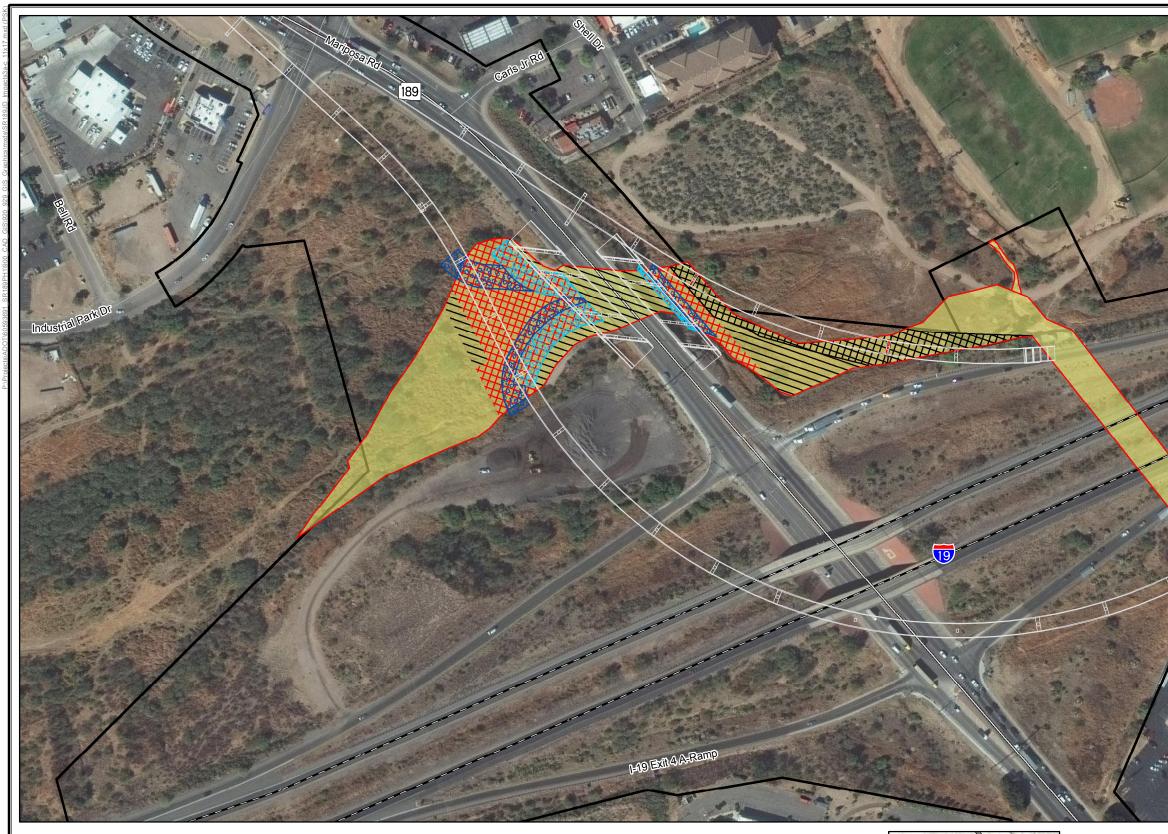
SECTION 404 JURISDICTIONAL DELINEATION				
U.S. Army Corps of Engineers, Los Angeles District				
Application No. SPL - 2011 - 00467 - KAT				
Boundary of area surveyed for				
jurisdictional waters of the United States				
Ordinary High Water Mark				
Waters of the United States				
Wetlands (If legend is blank no				
wetlands occur with survey area.)				
1'' = 200' Scale 2017 Date of Photograph				

Site Visit by Corps(Y/N) Date:\_\_\_\_\_\_ Date Delineation issued by Corps Corps Project Manager

Sheet 1 of 4







### Legend

- Survey Boundary
- Ordinary High Water Mark
- Waters of the U.S.
- **Permanent Impacts to WOUS**
- Temporary Impacts to WOUS
- Extended Temporary Impacts to WOUS

- ---- Intersate Highway
- Existing Riprap
- Interchange Structure Map Index

New Riprap

- Local Road
- Surface Management
  - Private Land (no color)



100

Inset Imagery Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User

AeroGRID, IGN, and the GIS User Community Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community 2017

SECTION 404 JURISDICTIONAL DELINEATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - <u>2011 - 00467 - KAT</u>
Boundary of area surveyed for
jurisdictional waters of the United States
Ordinary High Water Mark
Waters of the United States
Wetlands (If legend is blank no
wetlands occur with survey area.)
1'' = 200' Scale <u>2017</u> Date of Photograph

Site Visit by Corps(Y/N) Date:\_\_\_\_\_ Date Delineation issued by Corps Corps Project Manager Sheet 1 of 4

## State Route 189, International Border to Grand Avenue, Nogales, Santa Cruz County, Arizona

Design Plans from Design Concept Report (Plans represent 30 percent design and only include areas in and around Waters of the United States)

