APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 1

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 1

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10170
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 788.96 linear feet (ft), 3.31 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 10

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00502
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 552.82 linear feet (ft), 2.77 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 10

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 100

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 100

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.50007
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2334.94 linear feet (ft), 6.88 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 101

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 101

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.12144
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 101

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1676.98 linear feet (ft), 6.54 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 102

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 102

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02546
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	762.51	linear feet (ft),	6.34	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 103

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.39426
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 629.51 linear feet (ft), 9.29 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **103**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 104

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 104

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 104

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01283
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 307.46 linear feet (ft), 3.57 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 105

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 105

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 105

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02385
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 105

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	547.29	linear feet (ft),	5.11	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 106

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.55555
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 715.19 linear feet (ft), 10.78 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 107

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 107

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.21435
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 590.57 linear feet (ft), 9.25 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 108

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 108

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02276
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 519.62 linear feet (ft), 6.44 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 109

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01397
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 713.24 linear feet (ft), 6.06 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 11

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 11

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02668
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	154.18	linear feet (ft),	4.68	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 110

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 110

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	9.09191
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 110

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2645.83 linear feet (ft), 11.38 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 111

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 111

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	20.86087
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 111

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2643.13 linear feet (ft), 8.84 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 112

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07497
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1182.86 linear feet (ft), 7.26 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 112

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 113

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 113

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.12667
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 113

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	847.11	linear feet (ft),	6.76	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: **113**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 114

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 114

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02599
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1342.19 linear feet (ft), 4.15 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 115

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00117
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 141.77 linear feet (ft), 5.56 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 116

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 116

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00744
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 281.34 linear feet (ft), 5.45 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 117

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 117

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01562
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 117

Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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Feature ID: 117

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 172.67 linear feet (ft), 3.79 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 118

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 118

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 118

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.52366
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 118

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1468.01 linear feet (ft), 10.15 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 118

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 119

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 119

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01233
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2005.83 linear feet (ft), 4.84 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 12

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 12

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00201
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 201.74 linear feet (ft), 3.77 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 12

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 120

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 120

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 120

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01815
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 120

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 536.34 linear feet (ft), 4.64 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 121

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01848
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	271.31	linear feet (ft),	3.62	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 122

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 122

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 122

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02968
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2137.64 linear feet (ft), 4.52 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 123

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 123

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 123

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.45413
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1405.61 linear feet (ft), 7.70 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 124

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00412
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	371.61	linear feet (ft),	3.87	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 125

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.28894
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	951.75	linear feet (ft),	11.13	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 126

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 126

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01728
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

☐ Wetland Directly Abutting Non-TNW

☐ Wetland Not Directly Abutting Non-TNW

- ☐ Discrete wetland hydrologic connection Explain:
- ☐ Ecologcal connection Explain:
- ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 736.56 linear feet (ft), 6.49 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 127

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.13396
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1452.61 linear feet (ft), 5.07 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 128

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01570
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1043.60 linear feet (ft), 5.14 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 129

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 129

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 129

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00851
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 328.78 linear feet (ft), 3.72 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 13

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.16963
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	839.53	linear feet (ft),	4.31	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 130

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 130

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	8.40256
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1174.14 linear feet (ft), 16.90 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 131

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 131

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06103
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 807.90 linear feet (ft), 8.99 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 132

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 132

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 132

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.25227
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 132

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1270.85 linear feet (ft), 7.19 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 133

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00375
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 133

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 667.64 linear feet (ft), 3.77 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 134

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02611
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	814.01	linear feet (ft),	4.13	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 135

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 135

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00347
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 350.62 linear feet (ft), 3.67 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 136

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.12572
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 556.25 linear feet (ft), 4.87 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 137

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 137

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07861
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 137

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 623.40 linear feet (ft), 5.50 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 138

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 138

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01418
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	570.41	linear feet (ft),	5.48	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 139

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 139

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.82725
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1928.80 linear feet (ft), 9.84 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 14

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.20101
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1390.17 linear feet (ft), 3.77 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 14

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 140

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 140

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01034
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 140

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 715.86 linear feet (ft), 4.72 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: 140

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 141

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 141

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00417
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	394.18	linear feet (ft),	3.37	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 142

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 142

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04308
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 142

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 568.07 linear feet (ft), 4.35 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **142**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 143

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.15446
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	707.17	linear feet (ft),	12.33	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 144

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 144

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.54750
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 591.85 linear feet (ft), 12.57 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 145

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01298
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 221.32 linear feet (ft), 4.09 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 146

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00993
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 357.48 linear feet (ft), 4.85 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 147

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00117
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 184.47 linear feet (ft), 3.59 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 148

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.15241
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 642.39 linear feet (ft), 6.94 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 149

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06118
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	201.27	linear feet (ft),	3.10	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **149**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 15

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 15

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 15

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.08843
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 15

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 552.56 linear feet (ft), 56.18 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 15

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 150

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 150

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.19678
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1044.62 linear feet (ft), 17.49 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 151

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02262
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 876.77 linear feet (ft), 6.11 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 152

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 152

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	54.34713
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 6834.57 linear feet (ft), 10.45 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 153

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00096
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	179.31	linear feet (ft),	3.42	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 154

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.20656
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1523.27 linear feet (ft), 8.15 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 155

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04265
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 684.68 linear feet (ft), 10.45 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 156

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 156

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00747
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 724.76 linear feet (ft), 8.00 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 157

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 157

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 157

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	52.66796
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2840.59 linear feet (ft), 22.39 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 158

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02448
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	835.14	linear feet (ft),	4.42	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 159

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 159

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01472
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	459.19	linear feet (ft),	3.85	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 16

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 16

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01361
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 143.81 linear feet (ft), 4.24 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 160

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10231
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	727.35	linear feet (ft),	50.16	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **160**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 161

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00358
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 543.94 linear feet (ft), 4.87 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 162

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 162

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.05075
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	698.91	linear feet (ft),	6.88	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 163

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.26392
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1238.65 linear feet (ft), 19.00 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 164

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 164

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04120
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 164

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1688.41 linear feet (ft), 6.42 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 165

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 165

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00975
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	554.14	linear feet (ft),	19.58	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 166

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07486
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2195.29 linear feet (ft), 6.56 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 167

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00526
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 365.98 linear feet (ft), 4.24 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 168

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 168

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02768
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 427.71 linear feet (ft), 3.64 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 169

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 169

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00314
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 112.32 linear feet (ft), 2.95 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 17

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	9.40044
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	5506.48	linear feet (ft),	20.84	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 17

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 170

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 170

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00434
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 170

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 577.73 linear feet (ft), 4.41 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 170

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 171

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00273
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 400.55 linear feet (ft), 4.06 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 172

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00188
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 513.25 linear feet (ft), 4.91 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **172**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 173

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 173

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.83883
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 173

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1300.75 linear feet (ft), 8.02 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 174

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 174

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07130
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 819.88 linear feet (ft), 13.84 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 175

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 175

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.13689
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1095.97 linear feet (ft), 7.99 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 176

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03969
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	575.82	linear feet (ft),	9.16	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **176**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 177

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 177

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01017
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 557.70 linear feet (ft), 4.61 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 178

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06171
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 634.45 linear feet (ft), 6.07 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 179

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00483
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 532.52 linear feet (ft), 4.91 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 18

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 18

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04048
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2522.58 linear feet (ft), 6.66 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 180

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 180

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 180

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.36711
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2146.30 linear feet (ft), 12.22 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 181

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00885
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 328.88 linear feet (ft), 4.92 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 182

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00803
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 453.87 linear feet (ft), 4.82 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 183

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02963
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 563.33 linear feet (ft), 4.21 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 184

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00518
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 184

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 543.79 linear feet (ft), 3.76 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 185

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00570
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 445.64 linear feet (ft), 3.94 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **185**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 186

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 186

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.82629
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2477.22 linear feet (ft), 7.87 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 187

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 187

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 187

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02996
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1135.46 linear feet (ft), 6.40 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 188

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01025
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 547.46 linear feet (ft), 4.49 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 189

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00299
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	277.43	linear feet (ft),	4.40	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 19

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 19

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02718
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1190.50 linear feet (ft), 7.51 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 190

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.14774
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1008.20 linear feet (ft), 9.20 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 191

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01246
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 595.72 linear feet (ft), 5.95 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 192

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 192

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 192

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.19622
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1908.74 linear feet (ft), 9.00 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 193

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 193

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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00699
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

☐ Wetland Directly Abutting Non-TNW

☐ Wetland Not Directly Abutting Non-TNW

- ☐ Discrete wetland hydrologic connection Explain:
- ☐ Ecologcal connection Explain:
- ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 251.96 linear feet (ft), 3.19 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 194

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01640
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1634.49 linear feet (ft), 6.95 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 194

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 195

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 195

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	5.34043
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2857.43 linear feet (ft), 10.69 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 196

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 196

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00130
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 84.80 linear feet (ft), 3.77 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 197

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02388
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	699.89	linear feet (ft),	7.30	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 198

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07026
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 671.58 linear feet (ft), 12.24 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 199

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 199

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00363
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 387.56 linear feet (ft), 4.18 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 2

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 2

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 2

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04365
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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Feature ID: 2

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 162.60 linear feet (ft), 2.66 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: 2

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 20

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 20

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00463
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 20

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 142.06 linear feet (ft), 5.43 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 20

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 200

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 200

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04058
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 200

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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U.S Army Cops of Engineers

Feature ID: 200

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2174.84 linear feet (ft), 5.75 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: **200**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 201

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 201

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 201

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.15621
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 201

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	938.37	linear feet (ft),	11.95	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 202

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.23554
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	621.22	linear feet (ft),	13.20	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **202**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 203

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 203

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00834
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

☐ Wetland Directly Abutting Non-TNW

☐ Wetland Not Directly Abutting Non-TNW

- ☐ Discrete wetland hydrologic connection Explain:
- ☐ Ecologcal connection Explain:
- ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 778.84 linear feet (ft), 5.30 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **203**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 204

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 204

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00423
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 400.43 linear feet (ft), 4.95 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 205

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00447
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	814.08	linear feet (ft),	4.57	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 206

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.81863
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	834.47	linear feet (ft),	16.76	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 207

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 207

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00391
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 254.82 linear feet (ft), 4.28 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 208

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00286
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 164.91 linear feet (ft), 3.30 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 209

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04612
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 688.05 linear feet (ft), 8.35 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 21

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 21

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01843
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1355.31 linear feet (ft), 9.50 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 210

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 210

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.78566
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1307.07 linear feet (ft), 9.15 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 211

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02293
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

☐ Wetland Directly Abutting Non-TNW

☐ Wetland Not Directly Abutting Non-TNW

- ☐ Discrete wetland hydrologic connection Explain:
- ☐ Ecologcal connection Explain:
- ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1333.95 linear feet (ft), 5.68 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **211**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 212

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 212

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00331
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 260.14 linear feet (ft), 4.20 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 213

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 213

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03889
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1692.32 linear feet (ft), 5.57 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 214

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01502
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 967.53 linear feet (ft), 4.26 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 215

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 215

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	4.21754
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 3846.49 linear feet (ft), 9.56 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 216

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.28853
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 987.34 linear feet (ft), 9.77 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 217

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02043
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 572.21 linear feet (ft), 5.24 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 218

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02786
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

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

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

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

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 818.67 linear feet (ft), 4.42 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 219

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 219

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

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

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02008
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	525.96	linear feet (ft),	3.98	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 22

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 22

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01130
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 22

Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	382.61	linear feet (ft),	7.12	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: 22

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 220

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 220

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	25.63946
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1309.80 linear feet (ft), 23.06 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **220**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 221

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 221

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06941
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1344.66 linear feet (ft), 11.35 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 222

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 222

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04156
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1528.69 linear feet (ft), 6.00 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 223

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06288
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1266.85 linear feet (ft), 5.45 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 224

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 224

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.57447
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 224

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2450.10 linear feet (ft), 7.02 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **224**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 225

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 225

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 225

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02324
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 606.49 linear feet (ft), 5.27 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 226

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 226

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00249
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 554.80 linear feet (ft), 3.31 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: **226**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 227

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 227

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02233
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1421.78 linear feet (ft), 4.97 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: **227**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 228

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 228

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.05064
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 228

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 892.73 linear feet (ft), 4.06 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 229

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 229

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 229

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00529
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	452.98	linear feet (ft),	2.60	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 23

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 23

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04021
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2013.21 linear feet (ft), 5.95 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **23**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 230

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 230

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 230

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.75071
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2766.92 linear feet (ft), 9.67 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 231

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 231

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 231

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01382
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 231

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1267.83 linear feet (ft), 4.85 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 232

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 232

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00522
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 232

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 589.16 linear feet (ft), 3.61 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **232**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 233

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00819
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 553.40 linear feet (ft), 3.73 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **233**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 234

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 234

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.19229
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1968.46 linear feet (ft), 7.01 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 235

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03472
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1550.84 linear feet (ft), 4.89 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **235**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 236

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 236

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01951
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 947.91 linear feet (ft), 4.80 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 237

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 237

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 237

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.11830
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 733.63 linear feet (ft), 12.67 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 238

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 238

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00746
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 802.44 linear feet (ft), 4.87 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 239

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.31402
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2001.32 linear feet (ft), 10.28 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 239

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 24

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 24

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03086
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 24

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	2293.44	linear feet (ft),	5.46	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: **24**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 240

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 240

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01101
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 240

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 565.88 linear feet (ft), 6.14 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 241

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00681
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 241

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 241.59 linear feet (ft), 2.91 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **241**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 242

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00396
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	597.11	linear feet (ft),	4.30	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 243

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 243

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00943
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	574.61	linear feet (ft),	3.61	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 244

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.63884
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	814.02	linear feet (ft),	9.05	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 245

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.46960
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 952.52 linear feet (ft), 13.76 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 246

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 246

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	24.40403
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2750.38 linear feet (ft), 17.36 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 247

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 247

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10777
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1094.93 linear feet (ft), 8.73 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 248

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01448
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 979.67 linear feet (ft), 5.09 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **248**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 249

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 249

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04369
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1017.80 linear feet (ft), 6.44 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 25

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 25

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.17982
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 933.76 linear feet (ft), 13.10 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 250

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00396
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 43.58 linear feet (ft), 2.47 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 251

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.09409
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	605.56	linear feet (ft),	13.29	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 252

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 252

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.71649
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 663.14 linear feet (ft), 17.29 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 253

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01487
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1830.54 linear feet (ft), 6.64 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **253**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 254

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01641
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 54.98 linear feet (ft), 2.42 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 255

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 255

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.86799
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1056.82 linear feet (ft), 29.07 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 256

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 256

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 256

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10957
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2290.32 linear feet (ft), 7.49 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 257

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01471
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 892.11 linear feet (ft), 4.35 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 258

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 258

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00346
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 676.44 linear feet (ft), 3.92 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 259

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 259

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01633
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 983.27 linear feet (ft), 4.67 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 26

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 26

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02585
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1100.40 linear feet (ft), 5.50 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 260

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04921
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 684.65 linear feet (ft), 4.53 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 261

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 261

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04136
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1285.08 linear feet (ft), 5.48 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 262

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 262

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00230
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	534.31	linear feet (ft),	4.73	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: **262**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 263

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01392
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 917.32 linear feet (ft), 4.92 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 264

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 264

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.12585
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 4130.45 linear feet (ft), 13.22 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 265

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 265

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00590
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 265

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 558.84 linear feet (ft), 6.08 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 266

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.18038
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1052.77 linear feet (ft), 14.23 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **266**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 267

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 267

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.35312
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 3761.28 linear feet (ft), 11.08 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 268

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 268

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.11249
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 552.62 linear feet (ft), 8.81 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 269

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02501
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 818.00 linear feet (ft), 4.80 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **269**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 27

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 27

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02306
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 298.53 linear feet (ft), 10.02 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 270

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 270

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.05044
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	911.79	linear feet (ft),	5.26	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 271

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.20208
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 643.11 linear feet (ft), 13.54 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 272

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03530
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1260.69 linear feet (ft), 4.16 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 273

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 273

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01256
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1384.01 linear feet (ft), 4.28 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 274

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 274

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06948
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2020.96 linear feet (ft), 5.35 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 275

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03333
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1963.60 linear feet (ft), 5.27 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 276

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 276

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02896
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 592.25 linear feet (ft), 4.11 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 277

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 277

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01168
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	401.83	linear feet (ft),	3.97	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 278

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02058
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1323.64 linear feet (ft), 4.27 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 279

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03573
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	1048.32	linear feet (ft),	4.37	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 28

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 28

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00771
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 588.36 linear feet (ft), 9.18 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 280

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 280

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00760
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 668.93 linear feet (ft), 3.87 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 281

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00358
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 280.98 linear feet (ft), 5.24 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 282

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 282

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.12144
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1624.40 linear feet (ft), 4.20 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 283

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 283

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.05386
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 283

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1749.07 linear feet (ft), 3.98 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 284

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00064
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 284

Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 139.93 linear feet (ft), 3.11 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 285

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 285

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02300
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 775.16 linear feet (ft), 4.35 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 286

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 286

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 286

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00114
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 205.05 linear feet (ft), 4.01 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 287

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 287

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00334
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 176.39 linear feet (ft), 5.53 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 288

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.46436
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1590.44 linear feet (ft), 8.38 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 289

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 289

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.34529
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 289

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2403.62 linear feet (ft), 10.70 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 29

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 29

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.09228
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 29

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1272.30 linear feet (ft), 10.62 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 290

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02611
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1290.35 linear feet (ft), 5.71 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 291

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 291

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00657
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 791.42 linear feet (ft), 3.81 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 292

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 292

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.08379
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 564.17 linear feet (ft), 4.75 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 293

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.13058
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	1616.83	linear feet (ft),	7.61	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 294

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.29049
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 4377.30 linear feet (ft), 5.99 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 295

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 295

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.14703
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 216.74 linear feet (ft), 3.62 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 296

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03236
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 385.36 linear feet (ft), 4.40 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 297

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02485
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1191.44 linear feet (ft), 3.52 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 298

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00206
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 64.23 linear feet (ft), 1.66 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 299

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.09681
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2563.09 linear feet (ft), 5.31 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 3

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04051
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 3427.35 linear feet (ft), 5.55 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 3

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 30

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 30

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10002
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 30

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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Feature ID: 30

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 836.04 linear feet (ft), 8.62 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: 30

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 300

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 300

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 300

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00601
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 290.42 linear feet (ft), 3.80 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 301

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00306
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 286.98 linear feet (ft), 4.85 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: **301**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 302

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02416
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	521.92	linear feet (ft),	3.86	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 303

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00120
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 257.30 linear feet (ft), 3.37 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 304

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.45986
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1676.03 linear feet (ft), 11.98 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 305

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00452
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 168.83 linear feet (ft), 4.11 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 306

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 306

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.46645
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	538.64	linear feet (ft),	6.02	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 307

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 307

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00186
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 239.50 linear feet (ft), 4.22 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 308

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01996
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 213.28 linear feet (ft), 5.12 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 309

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00904
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 655.94 linear feet (ft), 5.62 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 31

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02733
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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Feature ID: 31

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1257.22 linear feet (ft), 8.24 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 310

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 310

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.11725
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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U.S Army Cops of Engineers

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 289.08 linear feet (ft), 3.36 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 311

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02555
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 201.97 linear feet (ft), 3.05 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 312

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 312

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00483
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 219.75 linear feet (ft), 3.45 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 313

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 313

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.40262
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 991.99 linear feet (ft), 5.78 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 314

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.18566
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	834.23	linear feet (ft),	33.05	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 315

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 315

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02058
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 240.25 linear feet (ft), 4.06 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 316

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.07033
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2158.08 linear feet (ft), 10.43 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 317

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01136
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1176.13 linear feet (ft), 4.73 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 318

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04622
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 809.04 linear feet (ft), 4.57 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 319

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00220
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 114.52 linear feet (ft), 3.54 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 32

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 32

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02111
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1098.39 linear feet (ft), 8.78 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 320

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.09741
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	679.52	linear feet (ft),	3.83	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **320**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 33

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 33

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06397
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 33

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 710.26 linear feet (ft), 7.58 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 34

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 34

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01232
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 34

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 253.40 linear feet (ft), 6.87 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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U.S Army Cops of Engineers

Feature ID: **34**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 35

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 35

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01275
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 348.45 linear feet (ft), 6.61 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 35

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 36

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 36

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00651
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 246.92 linear feet (ft), 8.93 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 37

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 37

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.02584
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	2056.27	linear feet (ft),	51.69	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 38

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.08658
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1777.09 linear feet (ft), 14.81 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 39

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 39

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	46.18638
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1805.60 linear feet (ft), 24.16 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 4

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 4

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 4

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10474
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 3017.93 linear feet (ft), 60.39 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 40

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 40

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10472
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 4051.07 linear feet (ft), 9.84 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 40

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 41

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 41

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07461
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1326.98 linear feet (ft), 10.12 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 42

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 42

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01273
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 676.70 linear feet (ft), 4.46 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 43

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07426
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 43

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 717.40 linear feet (ft), 4.80 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 43

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 44

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 44

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.47836
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 44

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1755.74 linear feet (ft), 8.79 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: **44**

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 45

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 45

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 45

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.13651
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2792.72 linear feet (ft), 8.05 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 45

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 46

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 46

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.17965
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1613.74 linear feet (ft), 10.30 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 47

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 47

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04962
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 47

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	945.01	linear feet (ft),	7.80	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 48

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 48

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03069
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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U.S Army Cops of Engineers

Feature ID: 48

Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 401.35 linear feet (ft), 3.23 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 48

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 49

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 49

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.85095
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 3465.45 linear feet (ft), 11.50 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 5

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 5

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02046
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	544.42	linear feet (ft),	8.93	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 5

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 50

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 50

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.45863
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1599.42 linear feet (ft), 14.43 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 51

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 51

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.32143
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 549.80 linear feet (ft), 8.59 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 52

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 52

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.05703
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 261.52 linear feet (ft), 5.97 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 53

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02198
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 619.08 linear feet (ft), 8.18 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 54

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 54

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01781
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 469.47 linear feet (ft), 10.09 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 55

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 55

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 55

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.02952
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 744.92 linear feet (ft), 11.17 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 56

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.19705
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	694.38	linear feet (ft),	15.08	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 57

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 57

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.26716
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	698.46	linear feet (ft),	13.92	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 58

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 58

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 58

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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.11942
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 548.49 linear feet (ft), 8.48 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 59

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.18700
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 593.30 linear feet (ft), 7.99 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 59

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 6

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 6

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04821
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are [30 (or more)] aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: [Natural] Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: [3:1]

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation
Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: [Stable.]
Presence of Run/Riffle/Pool Complexes. Explain: [Not present.]
Tributary Geometry: [Relatively Straight]
Tributary Gradient (approximate average slope): [1%]

(c) Flow:

Tributary Provides for: [Ephemeral Flow]
Estimate average number of flow events in review area/year: [2-5]
Describe Flow Regime: [Ephemeral.]
Other Information on Duration and Volume: [ ]

Surface Flow is: [Discrete and Confined] Characteristics: [ ]
Subsurface Flow: [No] Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2477.86 linear feet (ft), 4.21 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 60

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 60

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	9.27540
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 2015.72 linear feet (ft), 21.27 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 61

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	26.06156
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1964.05 linear feet (ft), 27.07 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 62

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01351
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 594.57 linear feet (ft), 4.51 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 63

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 63

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03261
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 404.82 linear feet (ft), 3.91 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 64

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 64

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 64

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00076
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 35.42 linear feet (ft), 1.88 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 65

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00088
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	55.20	linear feet (ft),	3.06	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 66

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 66

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04663
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 533.34 linear feet (ft), 5.54 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 67

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10408
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 711.27 linear feet (ft), 4.97 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 68

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00462
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 528.62 linear feet (ft), 2.90 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 69

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	2.32580
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1177.02 linear feet (ft), 8.25 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 7

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 7

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.07220
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 3206.73 linear feet (ft), 3.53 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 70

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 70

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:
☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 70

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	10.99181
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 70

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 612.39 linear feet (ft), 6.54 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 71

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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:

☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.01090
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 71

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1079.60 linear feet (ft), 5.66 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 71

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 72

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 72

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06149
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 525.29 linear feet (ft), 5.97 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 73

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 73

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 73

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.23371
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	551.72	linear feet (ft),	8.93	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 74

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.40373
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 546.63 linear feet (ft), 8.87 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 75

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 75

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.65192
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1129.10 linear feet (ft), 7.17 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 75

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 76

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 76

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03083
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 612.90 linear feet (ft), 7.65 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 77

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02655
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 863.15 linear feet (ft), 6.56 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 78

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.27461
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	541.16	linear feet (ft),	7.24	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 79

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00813
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	557.69	linear feet (ft),	3.66	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 8

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 8

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.54810
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 6512.70 linear feet (ft), 5.62 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 80

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04495
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 698.03 linear feet (ft), 12.76 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 81

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 81

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02405
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 542.03 linear feet (ft), 5.58 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 82

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 82

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00603
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 555.85 linear feet (ft), 5.69 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 83

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00370
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 283.90 linear feet (ft), 2.84 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 84

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04014
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 582.91 linear feet (ft), 7.28 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 85

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 85

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.82207
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 5538.82 linear feet (ft), 6.49 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 86

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 86

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00603
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 368.32 linear feet (ft), 4.30 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 87

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.06525
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	606.58	linear feet (ft),	8.32	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 88

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.40236
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are ____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are ____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: ____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: ____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): ____
Average Depth (ft): ____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: ____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: ____

Surface Flow is: Discrete and Confined Characteristics: ____
Subsurface Flow: No Explain: ____
☐ Dye (or other) test performed: ____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): ____

☐ Discontinuous? Explain: ____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1125.62 linear feet (ft), 10.88 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 89

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 89

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.22524
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 879.82 linear feet (ft), 27.07 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 9

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 9

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.00364
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 531.88 linear feet (ft), 2.80 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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Feature ID: 9

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 90

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 90

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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Feature ID: 90

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	2.02691
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Feature ID: 90

Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft):
Average Depth (ft):
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain:

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume:

Surface Flow is: Discrete and Confined Characteristics:
Subsurface Flow: No Explain:

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list):

- [ ] Discontinuous? Explain:

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1464.76 linear feet (ft), 11.70 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

APPROVED JURISDICTIONAL DETERMINATION FORM
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Feature ID: 90

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 91

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 91

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

Feature ID: 91

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.02498
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 571.87 linear feet (ft), 5.34 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 92

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.03396
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	599.03	linear feet (ft),	3.78	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 93

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.12917
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

- [x] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Muck
- [ ] Cobbles
- [x] Gravel
- [ ] Bedrock
- [ ] Substrate - Vegetation

Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]

- [ ] Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

- [ ] Bed and Banks
- [x] OHWM (check all the apply): OHWM Indicators:
  - [ ] Clear, natural line impressed on the bank
  - [x] Changes in soil character
  - [ ] Shelving
  - [ ] Vegetation matted down, bent or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [x] Presence of litter and debris
  - [ ] Destruction of terrestrial vegetation
  - [ ] Presence of wrack line
  - [ ] Sediment sorting
  - [x] Scour
  - [ ] Multiple observed or predicted flow events
  - [ ] Abrupt change in plant community

Other (list): [ ]

- [ ] Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 543.26 linear feet (ft), 7.81 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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Feature ID: 94

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 94

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.66153
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 655.71 linear feet (ft), 11.77 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

APPROVED JURISDICTIONAL DETERMINATION FORM
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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 95

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.05578
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 798.61 linear feet (ft), 15.39 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 96

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.05620
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 1051.58 linear feet (ft), 5.03 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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U.S Army Cops of Engineers

Feature ID: 97

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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 97

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.10613
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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 550.53 linear feet (ft), 6.43 width (ft)

☐ Other waters acres

☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 98

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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U.S Army Cops of Engineers

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	1.50972
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are _____ river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are _____ aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: _____

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: _____

Tributary properties with respect to top of bank (estimate):
Average Width (ft): _____
Average Depth (ft): _____
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: _____

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: _____

Surface Flow is: Discrete and Confined Characteristics: _____
Subsurface Flow: No Explain: _____
☐ Dye (or other) test performed: _____

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): _____

☐ Discontinuous? Explain: _____

If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	2544.81	linear feet (ft),	7.63	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

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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) July 5, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER Los Angeles District, File No. Pending

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 99

State: AZ County/Parish/borough: Pinal County City: N/A

Center coordinates of site: Lat. 32.8482°N Long. -111.2599°W

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:
Gila River between Powers Butte and Gillespie Dam

Name of watershed or Hydrologic Unit Code (HUC): 15050100

☑ Check if map/diagram of review are 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:

☑ Field Determination. Date(s): 10/2012

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.

☐ 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.

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.

1. Waters of the U.S.

a. Indicate presence of water of U.S. in review area (Check all the apply):

☐ TNWs (new)
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area

Non-Wetlands waters Linear Feet Width (ft) and/or Acres

Wetlands Acres:

c. Limits (boundaries) of Jurisdiction based on:

2. Non-Regulated Waters/Wetlands (check if applicable):

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be considered jurisdictional if it possessed a significant nexus with a downstream TNW. This drainage does not possess a significant nexus with the downstream TNW.

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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 aquatice 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: ☐ Vegetation

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 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 waterbody 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 (sq mi):	49650
Drainage Area (sq mi):	0.04347
Average Annual Rainfall (in):	10
Average Annual Snowfall (in):	0

(ii) Physical Characteristics:

(a) Relationship with TNW

☐ Tributary flows directly to TNW

☑ Tributary flows through 4 tributaries before entering TNW

Project waters are 30 (or more) river miles from TNW

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Project waters are [ ] river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are [ ] aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain: [ ]

Identify flow route to TNW: Towards the Santa Cruz Flats through ephemeral tributaries, tributary to Picacho Reservoir, McClellan Wash, or ag fields. Discrete flow path is not often discernible past these points, but overall topography suggests flows would be towards the Gila River.

(b) General Tributary Characteristics

Tributary is: Natural Explain: [ ]

Tributary properties with respect to top of bank (estimate):
Average Width (ft): [ ]
Average Depth (ft): [ ]
Average Side Slopes: 3:1

Primary tributary substrate composition (check all that apply):

☑ Silts ☐ Sands ☐ Concrete ☐ Muck
☐ Cobbles ☑ Gravel
☐ Bedrock ☐ Substrate - Vegetation Other, Explain: [ ]

Tributary Condition/Stability [e.g., highly eroding, sloughing banks. Explain: Stable.
Presence of Run/Riffle/Pool Complexes. Explain: Not present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 1%

(c) Flow:

Tributary Provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 2-5
Describe Flow Regime: Ephemeral.
Other Information on Duration and Volume: [ ]

Surface Flow is: Discrete and Confined Characteristics: [ ]
Subsurface Flow: No Explain: [ ]
☐ Dye (or other) test performed: [ ]

Tributary Has (Check all that apply):

☐ Bed and Banks
☑ OHWM (check all the apply): OHWM Indicators:

☐ Clear, natural line impressed on the bank
☑ Changes in soil character
☐ Shelving
☐ Vegetation matted down, bent or absent
☐ Leaf litter disturbed or washed away
☐ Sediment deposition
☐ Water staining
☑ Presence of litter and debris
☐ Destruction of terrestrial vegetation
☐ Presence of wrack line
☐ Sediment sorting
☑ Scour
☐ Multiple observed or predicted flow events
☐ Abrupt change in plant community

Other (list): [ ]

☐ Discontinuous? Explain: [ ]

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If factors other than the OHWN were used to determine lateral extent of CWA jurisdiction (Check all that apply):

☐ High tide line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other

☐ Mean High water Mark indicated by:
- ☐ survey to available datum
- ☐ physical markings
- ☐ vegetation lines/changes in vegetation types

(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:

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian Corridor Characteristics:

☐ 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:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics

Properties:

Wetland Size (ac):

Wetland Type, Explain:

Wetland Quality, Explain:

Project Wetlands Cross or Serve as State Boundaries, Explain:

(b) General Flow Relationship with Non-TNW:

Wetland Flow is: Explain:

Surface Flow is:

Characteristics:

Subsurface Flow: Explain Findings:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Wetland Directly Abutting Non-TNW
- ☐ Wetland Not Directly Abutting Non-TNW
  - ☐ Discrete wetland hydrologic connection Explain:
  - ☐ Ecologcal connection Explain:
  - ☐ Separated by berm/barrier Explain:

(d) Proximity (Relationship) to TNW

Project Wetlands: River Miles from TNW:

Project Wetlands: Aerial Miles from TNW:

Flow is From:

Estimate approximate Location of Wetland within Floodplain:

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics: ect.).
Explain
Identify specific pollutants, if know:

(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:
- ☐ Fish/Spawn Areas Explain:
- ☐ Other environmentally-sensitive species Explain:
- ☐ Aquatic/Wildlife Diversity Explain:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in cumulative analysis:
Wetland acres in total being considered in cumulative analysis:
Describe each wetland (directly abuts tributary?; size in acres; overall biological, chemical or physical functions):

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 TNW. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to section III.D:

This ephemeral drainage is located more than 80 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. An analysis of peak yearly discharges and potential flood discharges, in combination with the geomorphology of the Analysis Area, the ephemeral nature of intervening drainage reaches, the significant alteration of the potential path of downgradient flow, and the distance to the TNW, suggests that the possibility of a hydrologic connection between this drainage and the TNW is tenuous. No pollutants or critical habitats were identified within the Analysis Area. Additionally, this unnamed ephemeral drainage does not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. This drainage does not have more than a speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore, this unnamed ephemeral drainage

does not possess a significant nexus with the designated downstream TNW, the Gila River between Powers Butte and Gillespie Dam.

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent welands, then go to SectionIII.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 signifcant 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): TNW 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 are (check all that apply):

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs 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 significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

Provide estimates of jurisdictional waters within the review area (check all that apply):

Length (Linear Feet): Width (feet): Acres:

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 and 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 and RPW

Provide acreage estimates for jurisdictional wetland in the review area: Acres:

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

☐ 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetland 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 wetland in the review area (in acres):

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

E. ISOLATED WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Supporting rationale:

Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters

Explain finding of no Significant Nexus: See Section IIIC2.

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., rivers, streams): linear feet : width (ft):

☐ Other Non-wetland Waters MBR acres:

☐ Wetlands MBR 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	844.50	linear feet (ft),	8.26	width (ft)
☐ Other waters		acres		
☐ 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 Applicant/Consultant: WestLand Resources, Inc.

☑ Data Sheets Prepared/Submitted by or on behalf of 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 Water Study

☐ US Geological Survey Hydrologic Atlas

- ☐ USGS NHD Data
- ☐ USGS 8 and 12 digit HUC Maps

☑ US Geological Survey Map(s) Scale and Quad Name:

Cactus Forest, Eloy North, Picacho Pass, Picacho Reservoir, Picacho Reservoir SE, Red Rock, and Valley Farms 7.5-Minute Quadrangles

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S Army Cops of Engineers

Feature ID: 99

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): Aerials Express Phoenix 2009, BING Aerial Imagery 2011
- ☑ Other Photographs (Name and Date): Ground Photos; June through July 2012, September through October 2012
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD: