



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**  
**3636 NORTH CENTRAL AVENUE SUITE 900**  
**PHOENIX, AZ 85012-1939**

January 29, 2020

SUBJECT: Preliminary Jurisdictional Determination

Audrey Navarro  
Arizona Department of Transportation  
Environmental Planning Group 1611 W. Jackson St.  
Phoenix, Arizona 85007

Dear Ms. Navarro:

I am responding to your letter regarding the preliminary Department of the Army jurisdictional determination (JD) that was issued on June 17, 2019 for the proposed I-10, I-17 (Split) to SR202L (Santan) Improvement Project (010 MA 150 F0072 01D) (File No. SPL-2019-00178). This project is located within the City of Phoenix, Maricopa County, Arizona (Latitude: 33.250229, Longitude -112.00596). In your letter, you made us aware that the acreage for the open waters portion of the Tempe Drain was incorrectly reported and that you were requesting a new preliminary JD.

Based on new information provided, I have preliminarily determined waters of the U.S. may be present on the proposed I-10, I-17 (Split) to SR202L (Santan) Improvement Project (010 MA 150 F0072 01D) site in the approximate locations noted on the enclosed map. The basis for this finding may be found on the enclosed Preliminary Jurisdictional Determination (JD) form. Preliminary JDs are non-binding indications of the presence of waters of the U.S., including wetlands, on a parcel. Preliminary JDs are advisory in nature and may not be appealed.

This determination was conducted to identify the extent of the Corps' Clean Water Act jurisdiction on the proposed I-10, I-17 (Split) to SR202L (Santan) Improvement Project (010 MA 150 F0072 01D) project site identified in your request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

Thank you for participating in the regulatory program. If you have any questions, please contact Jesse Rice at (602) 230-6854 or via e-mail at [Jesse.M.Rice@usace.army.mil](mailto:Jesse.M.Rice@usace.army.mil). Please help me to evaluate and improve the regulatory experience for others by completing the [customer survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey) form at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

Sincerely,

Michael Langley  
Senior Project Manager  
Regulatory Division

Enclosures

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

Applicant: ARIZONA DEPARTMENT OF TRANSPORTATION	File Number: SPL-2019-00178	Date: JANUARY 29, 2020
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

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

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

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

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

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

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

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

<ul style="list-style-type: none"> <li>• <b>ACCEPT:</b> You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.</li> <li>• <b>APPEAL:</b> If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.</li> </ul>		
<p><b>E: PRELIMINARY JURISDICTIONAL DETERMINATION:</b> You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.</p>		
<p><b>SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT</b></p>		
<p><b>REASONS FOR APPEAL OR OBJECTIONS:</b> (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)</p>		
<p><b>ADDITIONAL INFORMATION:</b> The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.</p>		
<p><b>POINT OF CONTACT FOR QUESTIONS OR INFORMATION:</b></p>		
<p>If you have questions regarding this decision and/or the appeal process you may contact: Jesse Rice  Project Manager  U.S. Army Corps of Engineers  Los Angeles District  3636 North Central Avenue Suite 900  Phoenix, AZ 85012-1939  Phone: (602) 230-6854  Email: Jesse.M.Rice@usace.army.mil</p>	<p>If you only have questions regarding the appeal process you may also contact: Thomas J. Cavanaugh  Administrative Appeal Review Officer  U.S. Army Corps of Engineers  South Pacific Division  450 Golden Gate Ave.  San Francisco, California 94102  Phone: (415) 503-6574  Fax: (415) 503-6646  Email: thomas.j.cavanaugh@usace.army.mil</p>	
<p><b>RIGHT OF ENTRY:</b> Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.</p>		
<p>_____</p> <p>Signature of appellant or agent.</p>	<p>Date:</p>	<p>Telephone number:</p>



## Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

### BACKGROUND INFORMATION

**A. REPORT COMPLETION DATE FOR PJD:** January 29, 2020

**B. NAME AND ADDRESS OF PERSON REQUESTING PJD:** Audrey Navarro, ADOT, 1611 W. Jackson St., Phoenix, AZ 85007

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER:** LA District, I-10 Corridor Impr. Study, SPL-2019-00178

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:**

**(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

State: AZ County/parish/borough: Maricopa City: Phoenix

Center coordinates of site (lat/long in degree decimal format):

Lat.: 33.250229N Long.: -112.005996W

Universal Transverse Mercator: 405518mE; 3697920mN

Name of nearest waterbody: Salt River

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

☒ Office (Desk) Determination. Date: January 29, 2020

☐ Field Determination. Date(s): (Applicant) December 27, 2018, and May 15, 2019

**TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.**

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Salt River	33.250660N	-112.010563W	0.20	Wetland	Non-Section 10
Salt River	33.250660N	-112.010563W	38.94	Non-wetland	Non-Section 10
Tempe Drain	33.245189N	-112.004770W	0.069	Wetland	Non-Section 10
Tempe Drain	33.245189N	-112.004770W	3.65	Non-wetland	Non-Section 10

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "*may be*" waters of the U.S. and/or that there "*may be*" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA. Data reviewed for PJD (check all that apply)**

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

☒ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:

Map: Project location maps, Floodplain map, Wetland Plant Communities maps, Proposed Waters aeralis, USFWS National Wetland Inventory map

☒ Data sheets prepared/submitted by or on behalf of the PJD requestor.

☐ Office concurs with data sheets/delineation report.

☐ Office does not concur with data sheets/delineation report. Rationale: \_\_\_\_\_.

☐ Data sheets prepared by the Corps: \_\_\_\_\_.

☐ Corps navigable waters' study: \_\_\_\_\_.

☐ U.S. Geological Survey Hydrologic Atlas: \_\_\_\_\_.

☐ USGS NHD data.

☐ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: 1 inch = 0.5 mile on the Phoenix (1982) quad.

☒ Natural Resources Conservation Service Soil Survey. Citation: AZ655.

☒ National wetlands inventory map(s). Cite name: USFWS National Wetlands Inventory Wetlands Map.

☐ State/local wetland inventory map(s): \_\_\_\_\_.

☒ FEMA/FIRM maps: 04013C2220L 10/16/2013; LOMR 13-09-3108P 10/17/2013.

☐ 100-year Floodplain Elevation is: \_\_\_\_\_.(National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): ESRI 2019.

or ☒ Other (Name & Date): Ground Photographs December 27, 2018, and May 15, 2019.

☒ Previous determination(s). File no. and date of response letter: SPL-2006-01790-CJL; June 23, 2008.

☐ Other information (please specify): \_\_\_\_\_.

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

\_\_\_\_\_  
Signature and date of  
Regulatory staff member  
completing PJD

Audrey Navarro Digitally signed by Audrey Navarro  
Date: 2020.01.29 10:20:22 -07'00'

\_\_\_\_\_  
Signature and date of  
person requesting PJD  
(REQUIRED, unless obtaining  
the signature is impracticable)<sup>1</sup>

<sup>1</sup> Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.



33.418753° N  
112.022704° W

825 ft.

SALT

RIVER

1-3

2-2

2-1

1-2

1-1

33.419429° N  
112.014793° W

NH-010-C(220)T  
010 MA 150 F0072 01D  
I-10, I-17 (Split) to SR 202L (Santan)  
Location: T1N, R3E, Sections 23 and 24; T1N, R4E, Section 19;  
Phoenix and Tempe, Arizona, U.S. Geological Survey  
7.5' Topographic Series

Project Midpoint: 33.412969° N, 112.010214° W, NAD 83  
Aerial photo printed May 15, 2019 by EcoPlan Associates, Inc.  
(Esri Online Resources)  
Created by Sarah Beloshapka

● Sampling Plot Location

● Photo Point

↔ Direction of Photo

~ Direction of Flow



0 200 Feet

1 inch = 200 feet

\*\*\* PRELIMINARY (RGL 16-01) \*\*\*

**SECTION 404 JURISDICTIONAL DELINEATION**  
US Army Corps of Engineers, Los Angeles District  
Application No. 2019 -00178 -

- Boundary of area surveyed for jurisdictional Waters of the United States
- Approximate Ordinary High Water Mark
- Potential Waters of the United States
- Potential Wetlands (If legend is blank, no wetlands occur in survey area.)

Scale: See scale bar Photograph Date: 08/2017  
Site Visit by Corps (Y/N) Date: N/A  
Determination Issued: January 29, 2020  
Corps Project Manager: J. Rice Sheet 1 of 4

Tempe Drain

16 ft.

3-11

3-2

3-1

3-1

3-10

3-2

3-9

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NH-010-C(220)T  
010 MA 150 F0072 01D  
I-10, I-17 (Split) to SR 202L (Santan)  
Location: T1N, R3E, Sections 23 and 24; T1N, R4E, Section 19;  
Phoenix and Tempe, Arizona, U.S. Geological Survey  
7.5' Topographic Series

Project Midpoint: 33.412969° N, 112.010214° W, NAD 83  
Aerial photo printed May 15, 2019 by EcoPlan Associates, Inc.  
(Esri Online Resources)  
Created by Sarah Beloshapka

● Sampling Plot Location

● Photo Point

↔ Direction of Photo

→ Direction of Flow

North

0 200 Feet

1 inch = 200 feet

\*\*\* **PRELIMINARY (RGL 16-01)** \*\*\*

**SECTION 404 JURISDICTIONAL DELINEATION**  
US Army Corps of Engineers, Los Angeles District  
Application No. 2019 - 00178 - -

- Boundary of area surveyed for jurisdictional Waters of the United States
- Approximate Ordinary High Water Mark
- Potential Waters of the United States
- Potential Wetlands (If legend is blank, no wetlands occur in survey area.)

Scale: See scale bar      Photograph Date: 08/2017  
Site Visit by Corps (Y/N) Date: N/A  
Determination Issued: January 29, 2020  
Corps Project Manager: J. Rice      Sheet 2 of 4

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NH-010-C(220)T  
010 MA 150 F0072 01D  
I-10, I-17 (Split) to SR 202L (Santan)  
Location: T1N, R3E, Sections 23 and 24; T1N, R4E, Section 19;  
Phoenix and Tempe, Arizona, U.S. Geological Survey  
7.5' Topographic Series

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Aerial photo printed May 15, 2019 by EcoPlan Associates, Inc.  
(Esri Online Resources)  
Created by Sarah Beloshapka

● Sampling Plot Location

● Photo Point

↔ Direction of Photo

⤿ Direction of Flow

North

0 200 Feet

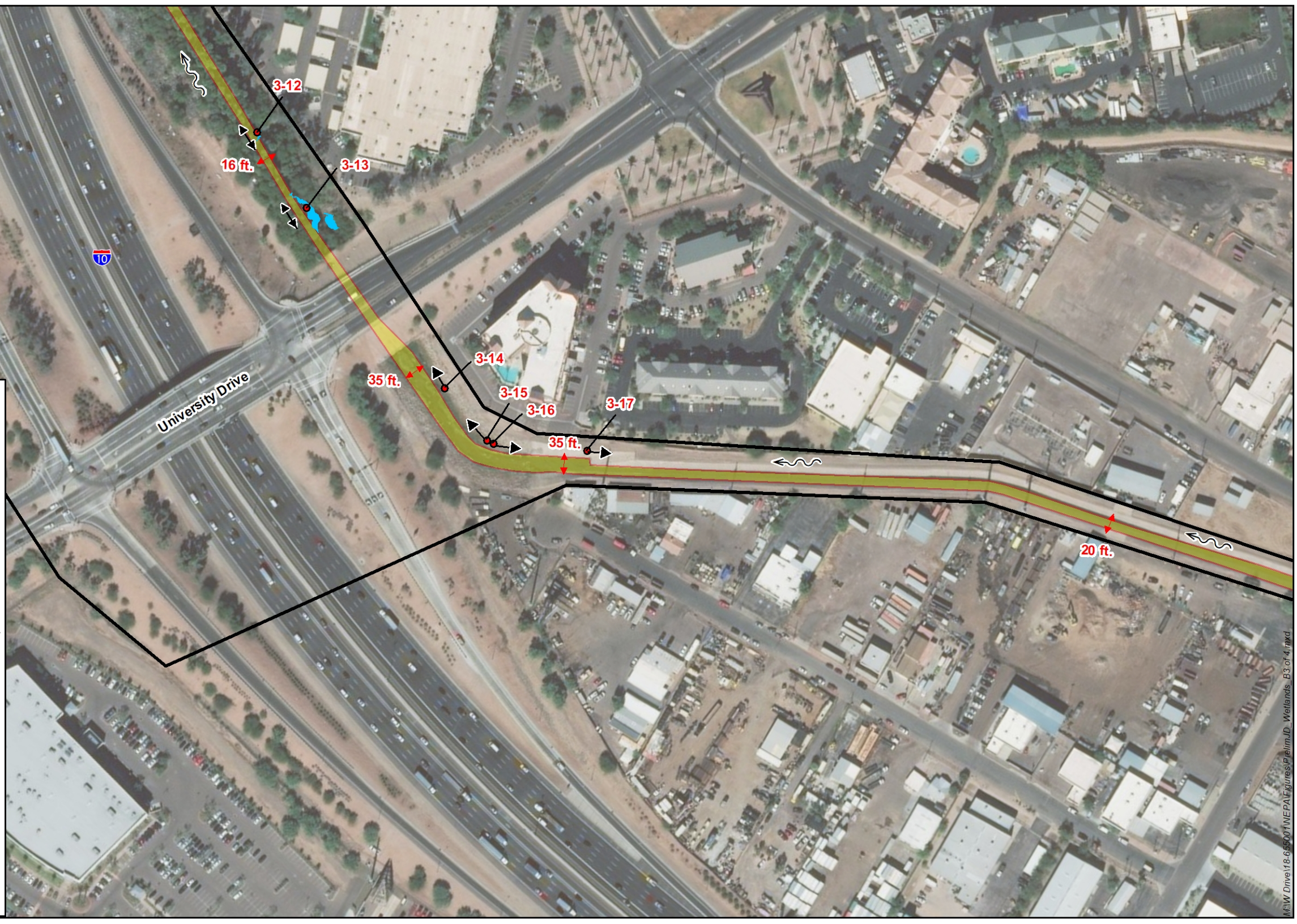
1 inch = 200 feet

\*\*\* PRELIMINARY (RGL 16-01) \*\*\*

SECTION 404 JURISDICTIONAL DELINEATION  
US Army Corps of Engineers, Los Angeles District  
Application No. 2019 - 00178 - - -

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- Approximate Ordinary High Water Mark
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Scale: See scale bar      Photograph Date: 08/2017  
Site Visit by Corps (Y/N) Date: N/A  
Determination Issued: January 29, 2020  
Corps Project Manager: J. Rice      Sheet 3 of 4



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NH-010-C(220)T  
010 MA 150 F0072 01D  
I-10, I-17 (Split) to SR 202L (Santan)  
Location: T1N, R3E, Sections 23 and 24; T1N, R4E, Section 19;  
Phoenix and Tempe, Arizona, U.S. Geological Survey  
7.5' Topographic Series

Project Midpoint: 33.412969° N, 112.010214° W, NAD 83  
Aerial photo printed May 15, 2019 by EcoPlan Associates, Inc.  
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Created by Sarah Beloshapka

● Sampling Plot Location

● Photo Point

↔ Direction of Photo

⤿ Direction of Flow

North

0 200 Feet

1 inch = 200 feet

\*\*\*\*\* PRELIMINARY (RGL 16-01) \*\*\*\*\*

SECTION 404 JURISDICTIONAL DELINEATION  
US Army Corps of Engineers, Los Angeles District  
Application No. 2019 - 00178 - - -

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Site Visit by Corps (Y/N) Date: N/A  
Determination Issued: January 29, 2020  
Corps Project Manager: J. Rice      Sheet 4 of 4

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