

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

January 31, 2020

SUBJECT: Preliminary Jurisdictional Determination

Israel Garcia Arizona Department of Transportation 1611 West Jackson Street Phoenix, Arizona 85007

Dear Mr. Garcia:

I am responding to your request (File No. SPL-2011-00655-KAT) received on January 17, 2020 for a preliminary Department of the Army jurisdictional determination (JD) for the proposed I-40/US 93 West Kingman System TI (Tracs 040 MO 048 H7993 01C) project site (Latitude: 35.206963, Longitude: -114.060355) located within the city of Kingman, Mohave County, Arizona.

The Corps' evaluation process for determining whether a Department of the Army permit is needed involves two tests. If both tests are met, a permit would likely be required. The first test determines whether the proposed project is located within the Corps' geographic jurisdiction (i.e., it is within a water of the United States). The second test determines whether as proposed, the project involves a regulated activity under Corps' authority, i.e., Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, or Section 103 of the Marine Protection Research and Sanctuaries Act. The determination in this letter pertains only to the question of geographic jurisdiction.

Based on available information, I have preliminarily determined waters of the U.S. may be present on the proposed I-40/US 93 West Kingman System TI (Tracs 040 MO 048 H7993 01C) project 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-40/US 93 West Kingman System TI (Tracs 040 MO 048 H7993 01C) 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. Please help me to evaluate and improve the regulatory experience for others by completing the <u>customer survey</u> form at 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	Date: JANUARY 31, 2020			
Attached is:	See Section below			
INITIAL PROFFERED PERMIT (Stand	A			
PROFFERED PERMIT (Standard Permi	В			
PERMIT DENIAL	С			
APPROVED JURISDICTIONAL DETE	D			
X PRELIMINARY JURISDICTIONAL D	Е			

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

- A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.
- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.
- B: PROFFERED PERMIT: You may accept or appeal the permit
- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer
 for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is
 authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its
 entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional
 determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

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

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

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

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

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

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

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 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.

Phoenix, AZ 85012-1939
Phone: (602) 230-6854
San Francisco, California 94102
Phone: (415) 503-6574

Phone: (602) 230-6854 Phone: (415) 503-6574 Email: Jesse.M.Rice@usace.army.mil Fax: (415) 503-6646

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

111 / US 112 Control 113 /							
	Date:	Telephone number:					
Signature of appellant or agent.							

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 1/8/2020

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

8500

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District

SPL-2011-00655: I-40/US 93 West Kingman System TI

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: Mohave City: Kingman

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

Lat.: 35.206963°N Long.: -114.060355°W

Universal Transverse Mercator: NAD 83

Name of nearest waterbody: Colorado River

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

X Office (Desk) Determination. Date: January 31, 2020 (Corps)

Field Determination. Date(s): 12/9/19-12/12/19 (Consultant)

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)
			See Corps Water Data Sheet		

- 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 "preconstruction 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 iurisdiction 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: State Location Map, Topographic and National Wetlands Inventory Map, Floodplain 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: 1969 Kingman, AZ 7.5' ☐ Natural Resources Conservation Service Soil Survey. Citation: National wetlands inventory map(s). Cite name: National Wetlands Inventory. US Fish and Wildlife Service. 2019 State/local wetland inventory map(s): FEMA/FIRM maps: 04015C4558H, 04015C4554H, 04015C4562H ____.(National Geodetic Vertical Datum of 1929) ☐ 100-year Floodplain Elevation is: _____ Photographs: Aerial (Name & Date): DigitalGlobe, July 2 and July 27, 2018 Other (Name & Date): Ground Photographs, December 9-12, 2019 Previous determination(s). File no. and date of response letter: ______. ☐ 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. Audrey Navarro Digitally signed by Audrey Navarro Date: 2020.01.17 10:25:35 -07'00' Signature and date of Signature and date of Regulatory staff member person requesting PJD completing PJD (REQUIRED, unless obtaining

the signature is impracticable)1

¹ 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.

Waters_Name	State	Cowardin_Code	HGM_Code	Meas_Type	Amount Units	Waters_Type	Latitude	Longitude	Local_Waterway
Wash 2	ARIZONA	R6	RIVERINE	Area	0.028 ACRE	DELINEATE	35.211338	-114.055748	
Wash 3	ARIZONA	R6	RIVERINE	Area	0.100 ACRE	DELINEATE	35.207564	-114.060744	
Wash 3a	ARIZONA	R6	RIVERINE	Area	0.044 ACRE	DELINEATE	35.207858	-114.060366	
Wash 4	ARIZONA	R6	RIVERINE	Area	2.854 ACRE	DELINEATE	35.204104	-114.088116	
Wash 4a	ARIZONA	R6	RIVERINE	Area	0.016 ACRE	DELINEATE	35.202018	-114.084996	
Wash 4b	ARIZONA	R6	RIVERINE	Area	0.047 ACRE	DELINEATE	35.202147	-114.082065	
Wash 4e	ARIZONA	R6	RIVERINE	Area	0.037 ACRE	DELINEATE	35.20069	-114.079421	
Wash 4f	ARIZONA	R6	RIVERINE	Area	0.084 ACRE	DELINEATE	35.199994	-114.078532	
Wash 4g	ARIZONA	R6	RIVERINE	Area	0.096 ACRE	DELINEATE	35.200308	-114.077398	
Wash 4ga	ARIZONA	R6	RIVERINE	Area	0.038 ACRE	DELINEATE	35.200363	-114.077257	
Wash 4I	ARIZONA	R6	RIVERINE	Area	0.185 ACRE	DELINEATE	35.1891	-114.068	
Wash 5	ARIZONA	R6	RIVERINE	Area	0.038 ACRE	DELINEATE	35.20018	-114.075737	
Wash 6	ARIZONA	R6	RIVERINE	Area	0.186 ACRE	DELINEATE	35.201241	-114.072601	
Wash 6a	ARIZONA	R6	RIVERINE	Area	0.018 ACRE	DELINEATE	35.201288	-114.073724	
Wash 6b	ARIZONA	R6	RIVERINE	Area	0.031 ACRE	DELINEATE	35.201425	-114.07269	
Wash 6c	ARIZONA	R6	RIVERINE	Area	0.026 ACRE	DELINEATE	35.200551	-114.071618	
Wash 6ca	ARIZONA	R6	RIVERINE	Area	0.012 ACRE	DELINEATE	35.200816	-114.071615	
Wash 6d	ARIZONA	R6	RIVERINE	Area	0.040 ACRE	DELINEATE	35.200147	-114.07148	
Wash 7	ARIZONA	R6	RIVERINE	Area	2.059 ACRE	DELINEATE	35.203211	-114.064178	
Wash 7a	ARIZONA	R6	RIVERINE	Area	0.087 ACRE	DELINEATE	35.203555	-114.062719	
Wash 7b	ARIZONA	R6	RIVERINE	Area	0.282 ACRE	DELINEATE	35.202035	-114.065596	
Wash 7c	ARIZONA	R6	RIVERINE	Area	0.080 ACRE	DELINEATE	35.198335	-114.06762	
Wash 7d	ARIZONA	R6	RIVERINE	Area	0.028 ACRE	DELINEATE	35.197454	-114.067602	
Wash 9	ARIZONA	R6	RIVERINE	Area	0.107 ACRE	DELINEATE	35.200178	-114.067159	
Wash 9a	ARIZONA	R6	RIVERINE	Area	0.032 ACRE	DELINEATE	35.200319	-114.068553	
Wash 9b	ARIZONA	R6	RIVERINE	Area	0.006 ACRE	DELINEATE	35.200331	-114.067906	
Wash 9c	ARIZONA	R6	RIVERINE	Area	0.006 ACRE	DELINEATE	35.200538	-114.067771	
Wash 9d	ARIZONA	R6	RIVERINE	Area	0.013 ACRE	DELINEATE	35.199902	-114.067186	
Wash 10	ARIZONA	R6	RIVERINE	Area	0.256 ACRE	DELINEATE	35.185615	-114.069421	
Wash 11	ARIZONA	R6	RIVERINE	Area	0.145 ACRE	DELINEATE	35.18354	-114.070309	

















